

Syllabus

IN THE MATTER OF

D. VICTOR WALLACE, TRADING AS PARAMOUNT
INSTITUTE

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

Docket 4009. Complaint, Feb. 1, 1940—Decision, June 26, 1940

Where an individual engaged in sale and distribution, in commerce among the various States, of correspondence course of study through the mails to prepare students for various civil service examinations for positions under the United States Government—

- (a) Represented, through use of advertising folder employed in personal solicitation and solicitation by his agents of prospective students, that under normal and ordinary conditions and circumstances most persons desiring to obtain civil service status by examination must have special coaching of the kind offered by him, and that he was in constant touch with the United States Civil Service Commission and its examiners and had advance and inside information concerning civil service examinations, and that he was a specialist in matters relating to the civil service of the United States Government and had a background of civil service experience therein, facts being, under conditions and circumstances referred to, persons wishing to pass such examination and qualified by prior general education and experience for particular positions desired do not require such coaching, very small percentage of those passing such examinations have had such coaching for examinations passed, his instruction is not of kind to prepare students for positions sought and is of little value to them unless otherwise qualified by prior education and experience, and, except as casual correspondent, he was not constantly or otherwise in touch with said commission or its examiners and had no advance information concerning its examinations, and was not such a specialist and had not had background of experience claimed as hereinabove set forth;
- (b) Represented, as aforesaid, that commission referred to holds examinations for all types of positions at frequent intervals from year to year, and especially for those for which he offers instruction, and that civil service employees are never discharged or deprived of their various positions with the Government except for misconduct or gross inefficiency, and that such employees, if efficient, are certain to obtain promotion in position and advancement in salary, and that persons passing civil service examination with high rating are certain of obtaining position with the Government and of doing so within a short time after passing such examination, facts being there are many types of positions, including some of those with respect to which he offers instruction, for which examinations are held only at infrequent intervals, with many years elapsing between them sometimes, many employees are discharged for reasons other than those above set forth, including such matters as insufficient appropriations, efficient employees of said character are not certain to obtain promotion as above set forth, and persons passing such an examination with high rating are not certain of obtaining position at early date or at all;

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- (c) Represented, as aforesaid, that persons between ages of 23 and 45 might become inspectors of customs if otherwise qualified, and that appointments to position of immigrant inspector were ordinarily given to those who had passed civil service examinations appropriate for such position, facts being age limits for customs inspectors were not as given, and appointments to position of immigrant inspector were, and had been for number of years, made on other tests and qualifications than passing of civil service examination, and such examinations for such position had not been given for more than 6 years, and positions in question had been filled by appointment and by promotion within departments;
- (d) Represented, as aforesaid, that persons who passed such examination as post office clerks and city mail carriers were eligible for appointment to regular positions paying \$1,700 a year, with increases of \$100 a year for 5 years, without first serving as substitutes, and that employees of said department entered upon their duties in such positions at salaries of \$1,700, \$1,800, \$1,900, and \$2,000, facts being postal clerk and mail carrier salaries first above indicated were paid only after such employees had served as substitutes and, in many instances, for a number of years, appointments to positions in department in question being made at salary of \$1,700 only after employee has served as substitute and no appointments being made at higher salaries referred to, which are result of promotion;
- (e) Represented, as aforesaid, that some employees of the United States Government working in civil service positions are allowed 30 days annual leave and no employee is required to work more than 8 hours a day, facts being some employees are required to work in excess of said amount, and 26, and not 30, days is maximum annual leave granted to such employees;
- (f) Made use of trade name including word "Institute" for conduct of his said business, and implied and represented thereby to prospective students that he conducted an institution of learning with staff of competent, experienced and qualified educators, and that his school was a large and extensive institution offering training and instruction in philosophy, art, science, and other learned subjects, facts being he offered only one course of study and instruction which was substantially same, regardless of civil service examination for which students wished to prepare, his said school was not a large or extensive institution and he had as only employee, a stenographer, in addition to limited number of salesmen employed in past as above set forth, he did not offer, in conduct of his said school, training or instruction in philosophy, art, science, or other learned subjects, neither he nor any of his employees was a competent, experienced, or qualified educator or teacher, and no basic or thorough or complete instruction was given in any subject of learning, his said school was not an institution of learning in any accurate sense, and method of instruction consisted in mere mailing out of previously prepared mimeographed or printed sheets and the grading of papers by a key or prepared answer sheets;
- (g) Represented and implied, through statement "Operated in strict compliance with the Laws and Regulations of the Federal Trade Commission" in advertising folders above referred to and circulated to prospective students, that the methods used in sale of said courses of study and instruction, and representations made in connection therewith, were all in conformity to the Federal Trade Commission Act and the decisions of the courts and the orders of the Federal Trade Commission thereunder,

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and that such methods and representations made in connection therewith conformed to the trade practice rules of the Commission relating to line of business of which his said school was a part, and also that Commission had approved his methods and representations used in connection therewith, and that he had permission of Commission to use said statement in promoting sale of said course of study and instruction, facts being such methods and representations used by him in conduct of his said business as above set forth, were not in conformity with said act or decisions of courts and orders of Commission thereunder, nor in conformity with said trade practice rules, and Commission had not approved his methods or representations used in connection with his business, and he did not have its permission to use said or any other statement in connection with promotion of sale of his said course of study and instruction; and

- (h) Represented to prospective purchasers that the price of \$49.50 cash, or \$59.50 on deferred payments, at which his said course was and had been offered, was a special price for the course, and that the regular one therefor had been \$125, and made many of such "special" offers to recent high school graduates, to whom it was further represented that such "special" price was being offered to them because of high scholastic standing or because of some other means of determining their selection as recipients of such "special offer," facts being regular and usual prices were amounts first stated and, with few exceptions, all people enrolled in his said school contracted for the course at not to exceed such prices, higher price mentioned was purely fictitious and no student was then required to contract for such course at said price, and only a few had been enrolled at said price during entire time in which he conducted his business, and prices referred to, actually given, were not because of high scholarship or other merit or special selection, but were given to all who could be induced to contract for course, regardless of such qualifications or selection;

With tendency and capacity to mislead purchasers and prospective purchasers of his said course of study and instruction into erroneous and mistaken belief that such representations, as above set forth, were true, and to induce them to purchase his said course of study and instruction on account of such belief:

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

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

Mr. Donovan R. Divet for the Commission.

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 D. Victor Wallace, an individual, trading as Paramount Institute, 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 in the public interest, hereby issues its complaint stating its charges in that respect as follows:

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PARAGRAPH 1. The respondent, D. Victor Wallace, is an individual trading as Paramount Institute and having his office and principal place of business at 1095 Market Street, San Francisco, Calif.

PAR. 2. Said respondent, D. Victor Wallace, is now and for more than 3 years last past has been engaged, under the name and style of Paramount Institute, in the sale and distribution in commerce among and between the various States of the United States, of a course of study and instruction intended for preparing students thereof for examinations for various civil service positions under the United States Government, which said course of study and instruction is pursued by correspondence through the medium of the United States mails. Respondent, in the course and conduct of said business, caused and does now cause said course of study and instruction to be transported from his said place of business in California to the purchasers thereof located in various States of the United States other than the State of California.

PAR. 3. Respondent, in the course and conduct of said business as aforesaid, through personal solicitation and through the solicitation of agents employed by him for that purpose, has made and does make many misleading representations concerning his said course of study and instruction to prospective students located in various States of the United States. As a part of said solicitation, whether made by respondent or his said agents, respondent has distributed and does distribute to said prospective students in various States of the United States a certain advertising folder or pamphlet designed and intended to induce said prospective students to purchase his said course of study and instruction, which said folder or pamphlet contains misleading representations and statements concerning said course of study and instruction, concerning respondent's said business, and concerning the civil service of the Government of the United States. Among and typical of said representations and statements are the following:

1. Examinations are held at frequent intervals from year to year.
2. Regardless of outside conditions, the Civil Service employee's position is absolutely sure and certain. Downright inefficiency or gross misconduct are the only things that can bring about his discharge.
3. Under the Civil Service system, efficiency soon makes its presence felt and attracts the attention of the men "higher up." Promotion in position and advancement in salary are the inevitable results.
4. To pass a Civil Service examination, one should be coached along the proper lines.
5. A high rating means an early appointment.
6. Our coaching courses are kept parallel with recent examinations and are at all times up-to-date, giving the student just what is required, and in the manner it is presented by the examiners.

7. Our students are notified by us just as soon as an examination is announced, as we are in constant touch with the Civil Service Commission.

8. Inspector of Customs—Age limits 23 to 45. Starting salary \$175.00 per month.

9. Immigrant Inspector—Age limits 21 to 45. Starting salary \$175.00 per month. Applicants must be in good health and free from color blindness or other serious defects.

10. Post Office Clerk—City Mail Carrier . . . Salaries for clerks and carriers, \$1,700 a year the first year (\$141.83 a month), with increases of \$100 a year for five years.

11. The United States Government is liberal with its employees. In the Post Office Department under which come such desirable positions as clerk, carrier, railway postal clerk, etc., appointments are made at \$1,700, \$1,800, \$1,900, and \$2,600 with opportunities for promotion to salaries of \$4,900 or more.

12. Vacation allowances are liberal, 30 full working days with pay being given in some branches of the service; and, in addition, 30 days' sick leave, if needed; * * *

13. Congenial hours are the lot of the government employees, nowhere more than eight hours a day being required.

14. Paramount Institute—Civil Service Specialists.

PAR. 4. Through the use of the aforesaid statements and representations and others of similar import and meaning not herein set out the respondent represents:

1. That the Civil Service Commission holds examinations for all types of positions at frequent intervals from year to year, and especially for those for which respondent offers instruction.

2. That Civil Service employees are never discharged or deprived of their various positions with the Government of the United States except for misconduct or gross inefficiency.

3. That efficient Civil Service employees of the Government of the United States are certain to obtain promotion in position and advancement in salary.

4. That under normal and ordinary conditions and circumstances most persons desirous of obtaining a Civil Service status by examination must have special coaching for said examination of the kind offered by respondent.

5. That persons passing a Civil Service examination with a high rating are certain of obtaining a position with the Government of the United States and are certain of obtaining such a position within a short time after passing said examination.

6. That respondent in the conduct of his said business is in constant touch with said Civil Service Commission and its examiners, and has advance and inside information concerning Civil Service examinations.

7. That persons between the ages of 23 and 45 years may become inspectors of customs if otherwise qualified.

8. That appointments to the position of Immigrant Inspector with the United States Government are ordinarily given to persons who have passed Civil Service examinations appropriate for that position.

9. That persons who pass a Civil Service examination as Post Office clerks and city mail carriers are eligible for appointment to regular positions paying \$1,700 a year with increases of \$100 a year for 5 years without first serving as substitutes.

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10. That employees of the Post Office Department enter upon their duties in such positions at salaries of \$1,700, \$1,800, \$1,900, and \$2,600.

11. That some employees of the United States Government working in Civil positions are allowed 30 days annual leave.

12. That no employees of the United States Government are required to work more than eight hours a day.

13. That respondent is a specialist in matters relating to the Civil Service of the Government of the United States, and that he has a background of Civil Service experience in the United States Government.

PAR. 5. In truth and in fact there are many types of positions, including some of those in regard to which respondent offers instruction, for which civil service examinations are held only at infrequent intervals, many years sometimes elapsing between such examinations; many civil service employees are discharged for reasons other than inefficiency or misconduct, as for example, insufficient appropriations; efficient civil service employees of the United States Government are not certain to obtain promotion in position or advancement in salary; under normal and ordinary conditions and circumstances persons wishing to pass civil service examinations, and who are qualified by prior general education and experience for the particular positions desired, do not require special coaching of the kind offered by respondent; a very small percentage of persons passing civil service examinations have had such special coaching for the examinations passed; the instruction offered by respondent is not of the kind to prepare students for the positions sought and it is of little value to them unless they are otherwise qualified by prior education and experience; persons passing a civil service examination with a high rating are not certain of obtaining a position at an early date or at all; the respondent is not constantly or otherwise in touch with the Civil Service Commission or its examiners, except as a casual correspondent, and has no advance information concerning civil service examinations; the age limits for inspectors of customs are 21 and 36 years; appointments to the position of immigrant inspector are and have been for a number of years made on other tests and qualifications than the passing of a civil service examination; civil service examinations for the position of immigration inspector have not been given for more than 6 years, and such positions have been filled by appointment and by promotion within the department; the salaries indicated by respondent for post office clerks and city mail carriers are those which are paid only after said employees have served as substitutes, in many instances for a number of years; appointments to positions in the Post Office Department are made at a salary of \$1,700 only after the employee has served as a substitute, and no appointments

are made at salaries of \$1,800, \$1,900, or \$2,600, such salaries being the result of promotion; 26 days is the maximum annual leave granted to civil service employees of the United States Government; some employees of the Government of the United States are required to work more than 8 hours a day; respondent is not a specialist in matters relating to the civil service of the United States and has not had a background of civil service experience in the United States Government.

PAR. 6. The name, Paramount Institute, under which respondent conducts his said business, is misleading in that it implies and serves as a representation to prospective students that respondent conducts an institution of learning with a staff of competent, experienced and qualified educators and that his school is a large and extensive institution offering training and instruction in philosophy, art, science, and other learned subjects. In truth and in fact respondent offers only one course of study and instruction which is substantially the same regardless of the civil service examination for which his said students wish to prepare; respondent's said school is not a large or extensive institution. Respondent has only one employee, a stenographer, in addition to a limited number of salesmen employed in the past as heretofore alleged; respondent in the conduct of his said school does not offer training or instruction in philosophy, art, science, or other learned subjects. Neither respondent nor any of his employees is a competent, experienced or qualified educator or teacher. No basic or thorough or complete instruction is given in any subject of learning. Respondent's school is not an institution of learning in any accurate sense. The method of instruction consists in the mere mailing out of previously prepared mimeographed or printed sheets and the grading of papers by means of a key or prepared answer sheets.

PAR. 7. In the course and conduct of his said business as aforesaid, respondent, in the advertising folder circulated to prospective students as previously referred to, has made and now makes the following statement and representation:

Operated in strict compliance with the Laws and Regulations of the Federal Trade Commission.

Through said statement respondent represents or implies that the method used in the sale of said course of study and instruction and the representations made in connection therewith are all in conformity to the Federal Trade Commission Act and the decisions of the courts and the orders of the Federal Trade Commission thereunder, and that such methods and representations made in connection therewith conform to the Trade Practice Rules of the Federal Trade Commission relating to the line of business of which respondent's said school is a part.

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Through said statement it is further represented or implied that the Federal Trade Commission has approved respondent's methods and the representations used in connection therewith and that the respondent has permission of the Federal Trade Commission to use said statement in promoting the sale of said course of study and instruction.

In truth and in fact the methods and representations used by respondent in the conduct of said business as specified herein are not in conformity to the Federal Trade Commission Act or the decisions of the courts and the orders of said Commission thereunder nor are they in conformity to the Trade Practice Rules of the line of business of which respondent's school is a part. The Federal Trade Commission has not approved respondent's methods or the representations used in connection with such business, and respondent does not have the Commission's permission to use said statement or any other statement in connection with the promotion of the sale of his said course of study and instruction.

PAR. 8. In the course and conduct of his said business as aforesaid, respondent has represented and now represents to prospective purchasers of his said course of study and instruction that the price at which said course is and has been offered to wit, \$49.50 cash or \$59.50 on deferred payments is a special price for the course and that the regular price thereof has been \$125. Many of such special price offers have been made to recent high school graduates to whom the further representation has been made that said special price has been offered to them because of high scholarship standing or because of some other means of determining their selection as recipients of such special offer.

In truth and in fact, the regular and usual price of respondent's said course of study and instruction is and has been \$49.50 cash or \$59.50 on deferred payments. With but few exceptions, all persons who have enrolled for instruction in respondent's said school have contracted for the course at not to exceed \$49.50 cash or \$59.50 on the deferred payment plan. The price of \$125 for said course is purely fictitious and no student is now required to contract for the course at that price. During the entire time respondent has conducted said business only a few students have been enrolled at that price. Said price of \$49.50 cash or \$59.50 on the deferred-payment plan is not given nor has it been given because of high scholarship or other mark of merit or because of special selection, but has been given to all who could be induced to contract for the course regardless of such special qualifications or selection.

PAR. 9. The aforesaid acts and practices used by respondent in connection with the offering for sale and sale of his said course of study and instruction has had, and now has, the tendency and capacity to mislead purchasers and prospective purchasers thereof into the

erroneous and mistaken belief that such representations, as herein alleged, are true, and to induce them to purchase respondent's said course of study and instruction on account thereof.

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

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on the 1st day of February 1940, issued and on the 16th day of April 1940, served its complaint in this proceeding upon respondent D. Victor Wallace, an individual trading as Paramount Institute, charging him with the use of unfair and deceptive acts and practices in commerce, as commerce is defined in the Federal Trade Commission Act, in violation of the provisions of said act. On May 29, 1940, the respondent filed his answer, in which answer he admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts. Thereafter the proceeding regularly came on for final hearing before the Commission on the said complaint and answer 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, D. Victor Wallace, is an individual trading as Paramount Institute and having his office and principal place of business at 1095 Market Street, San Francisco, Calif.

PAR. 2. Said respondent, D. Victor Wallace, is now and for more than 3 years last past has been engaged, under the name and style of Paramount Institute, in the sale and distribution in commerce among and between the various States of the United States of a course of study and instruction intended for preparing students thereof for examinations for various civil service positions under the United States Government, which said course of study and instruction is pursued by correspondence through the medium of the United States mails. Respondent, in the course and conduct of said business, caused and does now cause said course of study and instruction to be transported from his said place of business in California to the purchasers thereof located in various States of the United States other than the State of California.

PAR. 3. Respondent, in the course and conduct of said business as aforesaid, through personal solicitation and through the solicitation of agents employed by him for that purpose, has made and does make many misleading representations concerning his said course of study and instruction to prospective students located in various States of the United States. As a part of said solicitation, whether made by respondent or his said agents, respondent has distributed and does distribute to said prospective students in various States of the United States a certain advertising folder or pamphlet designed and intended to induce said prospective students to purchase his said course of study and instruction, which said folder or pamphlet contains misleading representations and statements concerning said course of study and instruction, concerning respondent's said business, and concerning the civil service of the Government of the United States. Among and typical of said representations and statements are the following:

1. Examinations are held at frequent intervals from year to year.
2. Regardless of outside conditions, the Civil Service employee's position is absolutely sure and certain. Downright inefficiency or gross misconduct are the only things that can bring about his discharge.
3. Under the Civil Service system, efficiency soon makes its presence felt and attracts the attention of the men "higher up." Promotion in position and advancement in salary are the inevitable results.
4. To pass a Civil Service examination, one should be coached along the proper lines.
5. A high rating means an early appointment.
6. Our coaching courses are kept parallel with recent examinations and are at all times up-to-date, giving the student just what is required, and in the manner it is presented by the examiners.
7. Our students are notified by us just as soon as an examination is announced, as we are in constant touch with the Civil Service Commission.
8. Inspector of Customs—Age limits 23 to 45. Starting salary \$175.00 per month.
9. Immigrant Inspector—Age limits 21 to 45. Starting salary \$175.00 per month. Applicants must be in good health and free from color blindness or other serious defects.
10. Post Office Clerk—City Mail Carrier * * * Salaries for clerks and carriers, \$1,700 a year the first year (\$141.83 a month), with increases of \$100 a year for five years.
11. The United States Government is liberal with its employees. In the Post Office Department under which come such desirable positions as clerk, carrier, railway postal clerk, etc., appointments are made at \$1,700, \$1,800, \$1,900, and \$2,600 with opportunities for promotion to salaries of \$4,900 or more.
12. Vacation allowances are liberal, 30 full working days with pay being given in some branches of the service; and, in addition, 30 days' sick leave, if needed; * * *
13. Congenial hours are the lot of the government employees, nowhere more than eight hours a day being required.
14. Paramount Institute—Civil Service Specialists.

PAR. 4. Through the use of the aforesaid statements and representations and others of similar import and meaning not herein set out, the respondent represents:

1. That the Civil Service Commission holds examinations for all types of positions at frequent intervals from year to year, and especially for those for which respondent offers instruction.

2. That Civil Service employees are never discharged or deprived of their various positions with the Government of the United States except for misconduct or gross inefficiency.

3. That efficient Civil Service employees of the Government of the United States are certain to obtain promotion in position and advancement in salary.

4. That under normal and ordinary conditions and circumstances most persons desirous of obtaining a Civil Service status by examination must have special coaching for said examination of the kind offered by respondent.

5. That persons passing a Civil Service examination with a high rating are certain of obtaining a position with the Government of the United States and are certain of obtaining such a position within a short time after passing said examination.

6. That respondent in the conduct of his said business is in constant touch with said Civil Service Commission and its examiners, and has advance and inside information concerning Civil Service examinations.

7. That persons between the ages of 23 and 45 years may become inspectors of customs if otherwise qualified.

8. That appointments to the position of Immigrant Inspector with the United States Government are ordinarily given to persons who have passed Civil Service examinations appropriate for that position.

9. That persons who pass a Civil Service examination as Post Office clerks and city mail carriers are eligible for appointment to regular positions paying \$1,700 a year with increases of \$100 a year for five years without first serving as substitutes.

10. That employees of the Post Office Department enter upon their duties in such positions at salaries of \$1,700, \$1,800, \$1,900, and \$2,600.

11. That some employees of the United States Government working in Civil Service positions are allowed 30 days annual leave.

12. That no employees of the United States Government are required to work more than eight hours a day.

13. That respondent is a specialist in matters relating to the Civil Service of the Government of the United States, and that he has a background of Civil Service experience in the United States Government.

PAR. 5. In truth and in fact there are many types of positions, including some of those in regard to which respondent offers instruction, for which civil service examinations are held only at infrequent intervals, many years sometimes elapsing between such examinations; many civil service employees are discharged for reasons other than inefficiency or misconduct as, for example, insufficient appropriations; efficient civil service employees of the United States Government are not certain to obtain promotion in position or advancement in salary;

under normal and ordinary conditions and circumstances persons wishing to pass civil service examinations, and who are qualified by prior general education and experience for the particular positions desired, do not require special coaching of the kind offered by respondent; a very small percentage of persons passing civil service examinations have had such special coaching for the examinations passed; the instruction offered by respondent is not of the kind to prepare students for the positions sought and it is of little value to them unless they are otherwise qualified by prior education and experience; persons passing a civil service examination with a high rating are not certain of obtaining a position at an early date or at all; the respondent is not constantly or otherwise in touch with the Civil Service Commission or its examiners, except as a casual correspondent, and has no advance information concerning civil service examinations; the age limits for inspectors of customs are 21 and 36 years; appointments to the position of immigrant inspector are and have been for a number of years made on other tests and qualifications than the passing of a civil service examination; civil service examinations for the position of immigration inspector have not been given for more than 6 years, and such positions have been filled by appointment and by promotion within the departments; the salaries indicated by respondent for post office clerks and city mail carriers are those which are paid only after said employees have served as substitutes, in many instances for a number of years; appointments to positions in the Post Office Department are made at a salary of \$1,700 only after the employee has served as a substitute, and no appointments are made at salaries of \$1,800, \$1,900, or \$2,600, such salaries being the result of promotion; 26 days is the maximum annual leave granted to civil service employees of the United States Government; some employees of the Government of the United States are required to work more than 8 hours a day; respondent is not a specialist in matters relating to the civil service of the United States and has not had a background of civil service experience in the United States Government.

PAR. 6. The name, Paramount Institute, under which respondent conducts his said business, is misleading in that it implies and serves as a representation to prospective students that respondent conducts an institution of learning with a staff of competent, experienced and qualified educators and that his school is a large and extensive institution offering training and instruction in philosophy, art, science, and other learned subjects. In truth and in fact respondent offers only one course of study and instruction which is substantially the same regard-

less of the civil service examination for which his said students wish to prepare; respondent's said school is not a large or extensive institution. Respondent has only one employee, a stenographer, in addition to a limited number of salesmen employed in the past as heretofore alleged; respondent in the conduct of his said school does not offer training or instruction in philosophy, art, science, or other learned subjects. Neither respondent nor any of his employees is a competent, experienced or qualified educator or teacher. No basic or thorough or complete instruction is given in any subject of learning. Respondent's school is not an institution of learning in any accurate sense. The method of instruction consists in the mere mailing out of previously prepared mimeographed or printed sheets and the grading of papers by means of a key or prepared answer sheets.

PAR. 7. In the course and conduct of his said business as aforesaid, respondent, in the advertising folder circulated to prospective students as previously referred to, has made and now makes the following statement and representation:

Operated in strict compliance with the Laws and Regulations of the Federal Trade Commission.

Through said statement respondent represents or implies that the method used in the sale of said course of study and instruction and the representations made in connection therewith are all in conformity to the Federal Trade Commission Act and the decisions of the Courts and the orders of the Federal Trade Commission thereunder, and that such methods and representations made in connection therewith conform to the Trade Practice Rules of the Federal Trade Commission relating to the line of business of which respondent's said school is a part. Through said statement it is further represented or implied that the Federal Trade Commission has approved respondent's methods and the representations used in connection therewith and that the respondent has permission of the Federal Trade Commission to use said statement in promoting the sale of said course of study and instruction.

In truth and in fact the methods and representations used by respondent in the conduct of said business as specified herein are not in conformity to the Federal Trade Commission Act or the decisions of the Courts and the orders of said Commission thereunder nor are they in conformity to the Trade Practice Rules of the line of business of which respondent's school is a part. The Federal Trade Commission has not approved respondent's methods or the representations used in connection with such business, and respondent does not have the Commission's permission to use said statement or any other statement

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in connection with the promotion of the sale of his said course of study and instruction.

PAR. 8. In the course and conduct of his said business as aforesaid, respondent has represented and now represents to prospective purchasers of his said course of study and instruction that the price at which said course is and has been offered, to wit, \$49.50 cash or \$59.50 on deferred payments is a special price for the course and that the regular price thereof has been \$125. Many of such special price offers have been made to recent high school graduates to whom the further representation has been made that said special price has been offered to them because of high scholarship standing or because of some other means of determining their selection as recipients of such special offer.

In truth and in fact, the regular and usual price of respondent's said course of study and instruction is and has been \$49.50 or \$59.50 on deferred payments. With but few exceptions, all persons who have enrolled for instruction in respondent's said school have contracted for the course at not to exceed \$49.50 cash or \$59.50 on the deferred payment plan. The price of \$125 for said course is purely fictitious and no student is now required to contract for the course at that price. During the entire time respondent has conducted said business only a few students have been enrolled at that price. Said price of \$49.50 cash or \$59.50 on the deferred payment plan is not given nor has it been given because of high scholarship or other mark of merit or because of special selection, but has been given to all who could be induced to contract for the course regardless of such special qualifications or selection.

PAR. 9. The aforesaid acts and practices used by respondent in connection with the offering for sale and sale of his said course of study and instruction has had, and now has, the tendency and capacity to mislead purchasers and prospective purchasers thereof into the erroneous and mistaken belief that such representations, as herein alleged, are true, and to induce them to purchase respondent's said course of study and instruction on account thereof.

CONCLUSION

The aforesaid acts and practices of the respondent as herein found are all to the prejudice of the public and constitute unfair and deceptive acts and practices in commerce, as commerce is defined in the Federal Trade Commission Act 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 he 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 respondent, D. Victor Wallace, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of courses of study and instruction intended for preparing students thereof for examinations for various civil service positions under the United States Government, and in connection with the offering for sale, sale, and distribution of any other course or courses of instruction in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that success in a civil service examination requires special coaching.

2. Representing that respondent has any opportunity for contact, not available to any member of the public, with the United States Civil Service Commission or its employees, or that respondent has advance or "inside" information concerning civil service examinations, or that respondent offers any preparation for civil service examinations other than a coaching service.

3. Representing that respondent is a specialist in matters relating to the civil service of the United States Government, or that he has special qualifications in relation to the civil service or examinations therefor.

4. Representing that respondent's general business or sales methods have the approval of the Federal Trade Commission or are in conformity with any rules or regulations issued by such Commission.

5. Representing that the price regularly and customarily charged for respondent's courses of study and instruction is a special or reduced price, or is anything other than the regular price for such courses.

6. Representing that respondent's courses of study are being offered to a particular prospect at a special or reduced price because of the prospect's high scholastic standing or for any other purported reason when such price is in fact the regular and customary price for such courses.

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7. Representing that persons who pass the civil service examination for post office clerks or city mail carriers are eligible for appointment without previously serving as substitutes for a period of time.

8. Misrepresenting the frequency with which, or the time at which, the United States Civil Service Commission holds, or will hold, examinations.

9. Misrepresenting the prospects for obtaining a position under civil service after having passed an examination, or the salary at which appointees enter into their positions, or the age limits for employees in civil service positions, or the prospects for promotion or advancement in salary of civil service employees, or the permanency of civil service positions.

10. Misrepresenting the number or classification of positions in the United States Government service which are ordinarily filled through civil service examinations.

11. Misrepresenting the number of working hours required of employees of the Government or the length of the period of annual leave granted such employees.

12. Using the term "Institute" as part of the trade or corporate name under which respondent's business of selling courses of instruction is conducted, or using the term "Institute" to in any way describe or refer to respondent's business.

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

Syllabus

IN THE MATTER OF
GREAT BUCKEYE CANDIES, INC.

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

Docket 4015. Complaint, Feb. 5, 1940—Decision, June 26, 1940

Where a corporation engaged in manufacture of candy and in sale and distribution of certain assortments thereof which were so packed and assembled as to involve use of a game of chance, gift enterprise, or lottery scheme when sold and distributed to consumers, and included (1) number of penny candy, all day suckers, upon sticks of some of which, embedded in said pieces of candy, appeared word "Bullet," for sale and distribution to such penny purchasers under a plan by which chance purchaser securing stick with word "Bullet" thereon was entitled to and received an additional piece of candy without additional cost, and (2) various other assortments which were so packed and assembled that sales thereof were to be made to purchasing public by means of game of chance, gift enterprise, or lottery scheme and under sales plan or method substantially similar to that above described and varying therefrom in detail only—

Sold said assortments to dealers and to retailers by whom, as direct or indirect purchasers thereof, such assortments were exposed and sold to purchasing public in accordance with aforesaid sales plan, under which additional pieces of candy worth one cent each were distributed to purchasing public wholly by lot or chance, and involving aforesaid game of chance or sale of a chance to procure additional piece of candy without additional cost, and thereby supplied to and placed in the hands of others means of conducting lotteries in the sale of its candy in accordance with sales plan or method above set forth, contrary to the established policy of the United States Government, and in violation of criminal laws, and in competition with many who are willing to adopt and use said or any method involving use of a game of chance or sale of a chance to win something by chance or any other method contrary to public policy and refrain therefrom;

With result that many persons were attracted by its said method and by element of chance involved in sale of said merchandise as above described and were thereby induced to buy and sell its said product in preference to that offered and sold by its said competitors, who do not use same or equivalent method, and with effect, through use of such method and because of said game of chance, of diverting unfairly trade in commerce to it from its competitors aforesaid who do not use such or equivalent sales plan or method; to the substantial injury of competition in commerce:

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.

Mr. D. C. Daniel for the Commission.