

IN THE MATTER OF
GEORGE W. HAYTINGS, TRADING AS NATIONAL FOLIO
SERVICE

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

Docket 4008. Complaint, Feb. 1, 1940—Decision, June 29, 1940

Where an individual engaged in sale and distribution of books and pamphlets, containing so-called treatises purporting to disclose and portray unusual business opportunities, to purchasers in various other States and in the District of Columbia; in advertising his said treatises through advertisements disseminated through newspapers and other periodicals, and through letters and circulars sent through the mails to prospective purchasers—

- (a) Represented directly and by inference that his so-called treatises presented business opportunities which possessed exceptional merit and offered prospects of high earnings and profits with expenditure of little or no effort, and that operation of businesses concerned involved no peddling or canvassing, and that the plans were original and new and in many cases included valuable formulas which had been acquired by him at great expenses and which he owned exclusively;

Facts being many plans set forth were without any substantial merit, and earnings and profits which he represented as obtainable from operation of businesses concerned were far in excess of any amounts which had been or might be earned therefrom, and many of his said plans did require peddling and house to house canvassing, and plans referred to by him were in many cases neither original nor new and did not include formulas which had any substantial value or which were owned exclusively by him; and

- (b) Represented that he was able to grant purchasers of such treatises exclusive rights to operate businesses concerned within certain territories, and that such treatises were offered for sale for a limited time only, and that he issued at regular intervals supplements thereto;

Facts being he was unable to grant purchasers any rights with respect to operation of such businesses in any specific territories, the time within which such plans might be obtained from him were not limited, but they were subject to purchase at any time, and he did not issue any supplements as set forth above;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such false statements and representations were true, and of inducing substantial portion of such public, because of such belief, to purchase a substantial number of such books and pamphlets:

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

Mr. Lynn C. Paulson 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 George W. Haylings, an individual, trading and doing business under the name and style of National Folio Service, hereinafter referred to as respondent, has violated the provisions of the said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. The said respondent, George W. Haylings, is an individual trading and doing business under the name and style of National Folio Service, with his office and principal place of business at 1071 West Thirtieth Street, Los Angeles, Calif.

PAR. 2. Respondent is now, and for more than 2 years last past has been, engaged in the sale and distribution of books and pamphlets containing so-called treatises purporting to disclose and portray unusual business opportunities.

Respondent causes said books and pamphlets, when sold, to be transported from his place of business in the State of California to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a course of trade in said books and pamphlets in commerce, among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his said business, and for the purpose of inducing the purchase of his said treatises, the respondent has made and now makes false and misleading representations with respect to his said treatises, such representations being disseminated by means of advertisements inserted in newspapers and other periodicals, and by means of letters and circulars sent through the United States mails to prospective purchasers of such treatises. Among and typical of such representations are the following:

Afternoons free for outdoors, shows, \$340 month home. Unique plans. No canvassing. Prepare for surprise.

\$50,000.00—NO CANVASSING * * * in orders—reports Mr. S. D. (full time and Exceptional). Smaller possibilities half days. Unusual Business Plan (Treatise 11-B) AFTERNOONS FREE for life's pleasures. Drive into the country or go to the movies afternoons. Work each morning until noon at HOME! Right now in time for a happy Autumn. Prepare for surprise!

New supplemental pages being issued regularly.

We are withdrawing this formula from our treatise next spring for our personal use.

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We will grant you territorial rights under a binding contract.

We are the sole owners of this plan and formula.

We went to considerable trouble and expense purchasing this unusual plan from a gentleman 6,000 miles away in Australia.

Here is something new! We have just purchased this formula.

"Special offer," limited by time.

Our Treatise No. 2, a workable "business plan" that tells you How the originator earned a remarkable wage "every month" the year round, no slack seasons. And—from a heretofore "hidden source" that will surprise, fascinate and Delight you!—there are few business worries—no long waits for the money—no long hours of unpleasant working—no similar competition—no office or store overhead—and no equipment needed in such a service of this kind—a service needed badly in this modern age.

PAR. 4. Through the use of the foregoing representations and others of similar import not specifically set out herein, respondent represents, directly and by inference, that his so-called treatises present business opportunities which possess exceptional merit and which offer prospects of high earnings and profits, with the expenditure of little or no effort; that the operation of such businesses involves no peddling or canvassing; that such plans are original and new and in many cases include valuable formulas which have been acquired by respondent at great expense and which are owned exclusively by respondent; that respondent is able to grant to purchasers of such treatises exclusive rights to operate such businesses within certain territories; that such treatises are offered for sale for a limited time only; that the respondent issues at regular intervals supplements to said treatises.

PAR. 5. The aforesaid representations are grossly exaggerated, false, and misleading. In truth and in fact, many of the plans set forth in respondent's treatises are without any substantial merit. The earnings and profits which respondent represents may be obtained from the operation of such businesses are far in excess of any amounts which have been or may be earned therefrom. Many of such plans do require peddling and house-to-house canvassing. Such plans are in many cases neither original nor new, nor do they include formulas which have any substantial value or which are owned exclusively by respondent. The respondent is unable to grant to purchasers any rights with respect to the operation of such businesses in any specific territories. The time within which such plans may be obtained from respondent is not limited, but such plans are subject to purchase at any time. The respondent does not issue any supplements to such treatises.

PAR. 6. The use by respondent of the foregoing false, deceptive, and misleading statements and representations has had, and now has, the capacity and tendency to, and does, mislead and deceive a substantial

portion of the purchasing public into the erroneous and mistaken belief that such false statements and representations are true, and induces a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase a substantial number of respondent's books and pamphlets.

PAR. 7. The aforesaid acts and practices of respondent as herein alleged are all to the prejudice and injury 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 February 1, 1940, issued, and thereafter served, its complaint in this proceeding upon respondent, George W. Haylings, trading as National Folio Service, charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On March 25, 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 the 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 said respondent, George W. Haylings, is an individual trading and doing business under the name and style of National Folio Service, with his office and principal place of business at 1071 West Thirtieth Street, Los Angeles, Calif.

PAR. 2. Respondent is now, and for more than 2 years last past has been, engaged in the sale and distribution of books and pamphlets containing so-called treatises purporting to disclose and portray unusual business opportunities.

Respondent causes said books and pamphlets, when sold, to be transported from his place of business in the State of California to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said books and pamphlets in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his said business, and for the purpose of inducing the purchase of his said treatises, the respondent has made and now makes false and misleading representations with respect to his said treatises, such representations being disseminated by means of advertisements inserted in newspapers and other periodicals and by means of letters and circulars sent through the United States mails to prospective purchasers of such treatises. Among and typical of such representations are the following:

Afternoons free for outdoors, shows, \$340 month home. Unique plans. No canvassing. Prepare for surprise.

\$50,000.00—No CANVASSING * * * in orders—reports Mr. S. D. (full time and Exceptional). Smaller possibilities half days. Unusual Business Plan (Treatise 11-B). AFTERNOONS FREE for life's pleasures. Drive into the country or go to the movies afternoons.

Work each morning until noon at HOME! Right now in time for a happy Autumn. Prepare for surprise!

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We are withdrawing this formula from our treatise next spring for our personal use.

We will grant you territorial rights under a binding contract.

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Here is something new! We have just purchased this formula.

"Special offer", limited by time.

"Our Treatise No. 2, a workable "business plan" that tells you How the originator earned a remarkable wage "every month" the year round, no slack seasons. And—from a heretofore "hidden source" that will surprise, fascinate and Delight you!—There are few business worries—no long waits for the money—no long hours of unpleasant working—no similar competition—no office or store overhead—and no equipment needed in such a service of this kind—a service needed badly in this modern age.

PAR. 4. Through the use of the foregoing representations and others of similar import not specifically set out herein, respondent represents and has represented, directly and by inference, that his so-called treatises present business opportunities which possess exceptional merit and which offer prospects of high earnings and profits, with the expenditure of little or no effort; that the operation of such businesses involves no peddling or canvassing; that such plans are original and new and in many cases include valuable formulas which have been acquired by respondent at great expense and which are owned exclusively by respondent; that respondent is able to grant purchasers of such treatises exclusive rights to operate such businesses within certain territories; that such treatises are offered for sale for a limited time only; that the respondent issues at regular intervals supplements to said treatises.

PAR. 5. The aforesaid representations are grossly exaggerated, false, and misleading. Many of the plans set forth in respondent's treatises are without any substantial merit. The earnings and profits which respondent represents may be obtained from the operation of such businesses are far in excess of any amounts which have been or may be earned therefrom. Many of such plans do require peddling and house-to-house canvassing. Such plans are in many cases neither original nor new, nor do they include formulas which have any substantial value or which are owned exclusively by respondent. The respondent is unable to grant to purchasers any rights with respect to the operation of such businesses in any specific territories. The time within which such plans may be obtained from respondent is not limited, but such plans are subject to purchase at any time. The respondent does not issue any supplements to such treatises.

PAR. 6. The use by respondent of the foregoing false, deceptive, and misleading statements and representations has had, and now has, the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements and representations are true, and induces, and has induced, a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase a substantial number of respondent's books and pamphlets.

CONCLUSION

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

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of 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 its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, George W. Haylings, trading as National Folio Service, or trading under any other name or names, his agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale,

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sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of books or pamphlets containing treatises with respect to purported business opportunities, do forthwith cease and desist from:

1. Representing as earnings or profits from the operation of the businesses described in said treatises, any amounts in excess of those which have in fact been regularly and customarily earned by persons operating such businesses under normal conditions.

2. Representing that the businesses described in said treatises involve no peddling or house-to-house canvassing, when in fact such businesses do require such activities.

3. Representing as original or new any plan or business which is not such in fact.

4. Representing that the formulas involved in the plans or business described in said treatises possess any substantial value, or that such formulas are owned exclusively by respondent.

5. Representing that respondent is able to grant to purchasers of said treatises or business plans any rights with respect to the operation of such businesses in any specific territory.

6. Representing that the period of time within which said treatises or business plans may be obtained from respondent is limited.

7. Representing that respondent issues any supplements to said treatises.

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.

Complaint

IN THE MATTER OF

GAREY CARR, TRADING AS AL VIOLA PRODUCTS

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

Docket 4045. Complaint, Mar. 2, 1940—Decision, June 29, 1940

Where an individual engaged in manufacture of his Al Viola Dental Plate Tightener and Reliner for tightening such plates, and sale and distribution thereof to purchasers in various other States and in the District of Columbia; in advertisements of his said product which he disseminated and caused to be disseminated through the mails, insertion in newspapers and periodicals of general circulation, and in circulars, and other printed or written matter distributed in commerce among the various States, and through other means in commerce and otherwise, and which were intended and likely to induce purchase of his said product—

Represented that his said dental plate tightener and reliner constituted a competent and effective method of tightening dental plates and that use thereof was certain to result in a perfect fit of such plates, and that it might be applied effectively by anyone, and that no expert assistance was required in use thereof, through such statements, among others, as "You can tighten and renew your present plates in a few minutes time in your own home" and "A simple fool-proof method with guaranteed results on any type of dental plate";

Facts being said device or product did not constitute in usual and ordinary case competent or effective method of tightening such plates and use thereof would not result in an improved fit, but satisfactory results therefrom could be obtained only in exceptional and unusual cases where condition of mouth was favorable to use of such method, and in which exceptional cases, also, product had to be applied by one qualified by training to perform such work, and results obtained would be only temporary in their nature;

With tendency and capacity to and effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such statements, representations, and claims were true, and into purchase of substantial quantities of his said product:

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

Mr. Jesse D. Kash 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 Garvey Carr, an individual trading as Al Viola Products, and 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