

Syllabus

IN THE MATTER OF
MILTON S. LONG, TRADING AS WALTON TRAINING
BUREAU

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

Docket 4346. Complaint, Oct. 11, 1940—Decision, Dec. 26, 1940

Where an individual engaged in interstate sale and distribution of correspondence courses of study and instruction, to prepare students for certain United States civil service examinations; in advertising his said courses through newspapers circulating among the general public in various States, and through printed advertising matter mailed to prospective students throughout the United States—

- (a) Represented that positions in the United States Government were immediately available, that he could secure positions for students of his courses, and that examinations would be held frequently, and that starting salaries were greater than was the case, through such statements, among others, as "MEN WANTED. Work for the Government. Salaries \$1,700-\$2,600 Per Year. No layoffs! Vacations with pay! Pensions! Railway Postal Clerk, City Mail Carrier, BE Post Office Clerk, Rural Mail Carrier. Do not wait for examination dates to be announced. Prepare Yourself Now! We are so certain that our simple course will eventually bring about your appointment that we are willing to wait for our tuition fee until you are appointed and working. * * *" and "Railway Postal Clerk, City Mail Carrier, Post Office Clerk and Rural Mail Carrier examinations are held frequently in different cities in the United States";

Facts being there were no positions immediately available in the Postal Service, he was not connected with the United States Government or its Civil Service Commission, had no control over appointments to positions under such Government, was not in a position to secure any appointments for anyone, and, as respects positions named in his advertisements and as to which his courses and instruction were offered, there had been extended periods during which no examinations were held, and only residents of districts in which examinations might at some future date be held were eligible to take same; and

- (b) Represented that he obtained information from the Civil Service Commission with respect to examinations to be held which was not available to students, and that qualified instructors graded and marked examination papers, through such statements as "When information comes to us that examinations are to take place in your immediate locality you can request lessons sent you air mail or special delivery as we know you are anxious to take an examination as soon as possible," and "The lessons of this course have been assembled after a thorough analysis of past examinations have been made by our competent experts";

Facts being he did not have in his employ, and was not himself, a qualified instructor nor did he employ competent experts who, after thorough analysis of past examinations, had assembled courses of instruction offered by him, and he had had, as matter of fact, no experience in preparing applicants

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for civil service examinations in subjects offered and had no influence with respect to dates and locations of such examinations that was not available to public generally;

With effect, through use of aforesaid misleading representations, of confusing, misleading, and deceiving members of public into belief that such representations were true, and of inducing them to purchase his said courses of study and instruction and pursue same on account of such belief:

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. William L. Pencke 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 Milton S. Long, individually and doing business under the name and style of Walton Training Bureau, 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. Milton S. Long is an individual trading and doing business under the name and style of Walton Training Bureau, with his office and principal place of business at 121 Ellison Street, in the city of Paterson, State of New Jersey.

PAR. 2. Respondent is now, and since the month of February 1940, has been engaged in the sale and distribution in commerce between and among the various States of the United States of courses of study and instruction intended for preparing students thereof for examinations for certain civil service positions under the United States Government, which said courses are pursued by correspondence through the medium of the United States mail. Respondent, in the course and conduct of said business during the time aforesaid, caused, and does now cause, his said courses of study and instruction to be transported from his said place of business in New Jersey to, into and through States of the United States other than New Jersey to the purchasers thereof in such other States.

PAR. 3. In the sale of said courses of study and instruction, the respondent makes use of advertisements inserted in newspapers circulated among the general public in various States of the United States and also printed advertising matter mailed to prospective students throughout the United States, in and by which various misleading representations are made in regard to said courses or matters and things connected therewith. Among such misleading representations

are those which represent or imply that positions in the United States Government are immediately available or that respondent can secure positions for students of his courses; that examinations will be held frequently; that the starting salaries are greater than they are in fact, that respondent obtains information from the Civil Service Commission with respect to examinations being held which is not available to students, and that qualified instructors grade and mark examination papers. Typical of such representations are the following:

MEN WANTED

Work for the Government

Salaries \$1,700—\$2,600 Per Year

No layoffs! Vacations with pay! Pensions!

Railway Postal Clerk City Mail Carrier

BE Post Office Clerk Rural Mail Carrier

Do not wait for examination

dates to be announced

Prepare Yourself Now!

We are so certain that our simple course will eventually bring about your appointment that we are willing to wait for our tuition fee until you are appointed and working. Entire cost of our 10-lesson Home Training course is \$25, plus \$3 enrollment fee. In plain words you owe us nothing unless our Home Training course actually gets you an appointment and are working.

If you are a citizen of U. S.—
weigh 125 lbs.—height 5'4"—age
18 to 50. Use the coupon below.

You Pay for Our Home Study Course Only After You Have Received Appointment and Are Working.

Railway Postal Clerk, City Mail Carrier, Post Office Clerk and Rural Mail Carrier examinations are held frequently in different cities in the United States.

When information comes to us that examinations are to take place in your immediate locality you can request lessons sent you air mail or special delivery as we know you are anxious to take an examination as soon as possible.

There is a \$3.00 enrollment fee after your application is accepted and filed—this partly pays for the cost of a qualified instructor for grading and marking your examination papers.

The lessons of this course have been assembled after a thorough analysis of past examinations have been made by our competent experts.

We offer you many years' experience in coaching for examinations.

In truth and in fact there are no positions immediately available in the Postal Service of the United States Government; the respondent is not connected with the United States Civil Service Commission and does not have control over any appointments to positions under the United States Government and is not in a position to secure any appointments for any one. With respect to positions named in respondent's advertisements as to which the courses of study and instruc-

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tion are being offered, there have been extended periods of time during which no examinations were held; moreover, only residents of the districts in which examinations may be held at some future date are eligible for taking such examination. The respondent does not have in his employ any qualified instructors nor is he himself a qualified instructor. In fact, respondent has no experience in preparing applicants for civil service examinations in the subjects offered for instruction; and has no information with respect to dates and locations of civil service examinations which is not available to the public generally.

PAR. 4. The representations of respondent, as aforesaid, have had and do have the tendency and capacity to confuse, mislead, and deceive members of the public into the belief that such representations are true, and to induce them to purchase respondent's courses of study and instruction and purchase the same on account thereof.

PAR. 5. The aforesaid acts and practices of the 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 the 11th day of October 1940, issued, and on the 14th day of October 1940, served, its complaint in this proceeding upon respondent, Milton S. Long, charging said Milton S. Long, individually and trading as Walton Training Bureau, with 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 respondent's answer, the Commission, by order entered herein, granted respondent's request for permission to withdraw said answer and to substitute therefor, an answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and substitute answer, and the Commission, having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its finding as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Milton S. Long, is an individual who is now, and at all times herein mentioned has been, trading and doing business under the name and style of Walton Training Bureau, with his principal office and place of business located at 121 Ellison Street, Paterson, N. J.

PAR. 2. Respondent, Milton S. Long, individually, and trading under the name and style of Walton Training Bureau, is now, and since the month of February 1940, has been, engaged in the sale and distribution in commerce between and among the various States of the United States of courses of study and instruction intended for preparing students thereof for examinations for certain civil service positions in the United States Government, which said courses of study and instructions are pursued by correspondence through the medium of the United States mail. Respondent in the course and conduct of said business during the time aforesaid, caused and does now cause his said courses of study and instruction to be transported from his said place of business in New Jersey to, into and through States of the United States other than New Jersey to the various purchasers thereof in such other States.

PAR. 3. Respondent is now, and during the time above mentioned has been, making use of advertisements inserted in newspapers, circulating among the general public in various States of the United States, and is now and has been making use of printed advertising matter mailed to prospective students throughout the United States in and by which means various misleading representations are, and have been, made in regard to his aforesaid courses and matters and things connected therewith.

Among such misleading representations made as aforesaid, are those which represent or imply that:

1. Positions in the United States Government are immediately available.
2. Respondent can secure positions for students of his courses.
3. Examinations will be held frequently.
4. Starting salaries are greater than they are in fact.
5. Respondent obtains information from the Civil Service Commission with respect to examinations to be held which is not available to students.

6. Qualified instructors grade and mark examination papers.

Typical of such misleading representations, inserted as advertisements in newspapers as aforesaid, or mailed to prospective students as aforesaid, are the following:

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MEN WANTED

Work for the Government
Salaries \$1,700—\$2,600 Per Year
No layoffs! Vacations with pay! Pensions!
Railway Postal Clerk City Mail Carrier
BE Post Office Clerk, Rural Mail Carrier
Do not wait for examination
dates to be announced
Prepare Yourself Now!

We are so certain that our simple course will eventually bring about your appointment that we are willing to wait for our tuition fee until you are appointed and working. Entire cost of our 10-lesson Home Training Course, is \$25, plus \$3 enrollment fee. In plain words you owe us nothing unless our Home Training Course actually gets you an appointment and are working.

If you are a citizen of U. S.—
weigh 125 lbs.—height 5'4"—age
18 to 50. Use the coupon below.

You pay for Our Home Study Course Only After You Have Received Appointment and Are Working.

Railway Postal Clerk, City Mail Carrier, Post Office Clerk and Rural Mail Carrier examinations are held frequently in different cities in the United States.

When information comes to us that examinations are to take place in your immediate locality you can request lessons sent you air mail or special delivery as we know you are anxious to take an examination as soon as possible.

There is a \$3.00 enrollment fee after your application is accepted and filed—this partly pays for the cost of a qualified instructor for grading and marking your examination papers.

The lessons of this course have been assembled after a thorough analysis of past examinations have been made by our competent experts.

We offer you many years' experience in coaching for examinations.

PAR. 4. In truth and in fact there are no positions immediately available in the Postal Service of the United States Government. Respondent is not connected with the United States Government or with the United States Civil Service Commission, and he does not have control over any appointments to positions under the United States Government. Respondent is not in a position to secure any appointments for anyone. With respect to positions named in respondent's advertisements as to which the courses of study and instruction are being offered, there have been extended periods of time during which no examinations were held and, moreover, only residents of the districts in which examinations may be held at some future date are eligible for taking such examinations.

PAR. 5. Respondent does not have in his employ, nor is respondent himself, a qualified instructor, nor does respondent have in his employ experts who, after a thorough analysis of past examinations, have assembled the courses of instruction offered by him; as a matter of

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fact, respondent has had no experience in preparing applicants for civil service examinations in the subjects offered for instruction, and he has no information with respect to dates and locations of civil service examinations that is not available to the public generally.

PAR. 6. The foregoing misleading representations used by respondent in advertising in newspapers, and the misleading representations used by respondent in the printed matter mailed to prospective students, in the sale of his course of study and instruction have had, and do now have the tendency to, and do in fact, confuse, mislead, and deceive members of the public into the belief that such representations are true, and to induce them to purchase respondent's courses of study and instruction and pursue the same on account thereof.

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 conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Milton S. Long, individually or when trading under the name and style of Walton Training Bureau, or under any other name and style, in connection with the offering for sale, sale, and distribution of his courses of study and instruction in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that positions in the United States Government are immediately available.

2. Representing that he can secure positions for students of his courses, or representing he has any control over appointments to positions under the United States Government, or that he is in a position to secure appointments with the United States Government.

3. Representing that civil service examinations will be held frequently.

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4. Representing that the starting salaries for any position so advertised are greater than they are in fact.

5. Representing that he obtains information from the Civil Service Commission with respect to examinations being held which is not available to students.

6. Representing that qualified instructors grade and mark examination papers, or that the courses offered by him have been assembled after a thorough analysis of past examinations have been made by competent experts.

7. Representing that he is connected with the United States Government or the United States Civil Service.

8. Representing that the positions named in his advertisements, or any other positions in the United States Government, are immediately available to his students, unless the civil service is accepting applications for such positions.

9. Representing that he has had experience in preparing applicants for civil service examination or that he has had experience in qualifying applicants for such examination.

10. Representing that he has information with respect to dates and location of civil service examinations which is not available to the public generally.

It is further ordered, That 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.

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IN THE MATTER OF
HALL & RUCKEL, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3389. Complaint, Apr. 26, 1938—Decision, Dec. 27, 1940*

Where a corporation engaged in preparation, in cream and powder form, of its "X-Bazin" depilatory, and in interstate sale and distribution thereof, in substantial competition with others also engaged in sale and distribution, in commerce, of preparations manufactured, advertised, and sold as depilatories, and including many who make, distribute and sell to purchasing public preparations recommended as such, and who in no way misrepresent the efficacy, properties or nature of their respective products; in advertising its said "X-Bazin" in newspapers and other periodicals of general circulation throughout the United States, and through advertising folders and other advertising matter distributed among prospective purchasers—

- (a) Represented that its said preparation discouraged growth of hair and delayed appearance thereof for a material length of time, and that hair was much slower in returning or regrowing than when it was shaved or otherwise removed, and that it would permanently eradicate hair; and
- (b) Represented that hair returning or regrowing after use of its said preparation was softer and less coarse than that returning or regrowing after shaving, and that its said product gave results unlike other methods of hair removal;

Facts being its said "X-Bazin" would not discourage growth of hair or delay appearance thereof for any material length of time, nor permanently remove hair from the body, nor lessen future growth thereof nor devitalize roots of the hair, hair was not appreciably slower in returning or regrowing than it was following other methods of hair removal, and, while regrowth of hair removed by depilatory might, as compared with regrowth of that removed by razor, give impression of being softer than original, it would not in fact be any less coarse or any softer than other, but hair follicle would in any case retain its original diameter and hair regrowing after use of depilatory would have exactly same characteristics as that growing before such removal; and

- (c) Represented that its product was not caustic and was entirely safe and harmless, and had been and was endorsed by scientists and physicians;

Facts being that while it was reasonably safe for use by most individuals, it was not entirely safe in all cases, certain persons being susceptible or hypersensitive to chemicals contained in depilatories, including barium sulphide contained in said product, and responsible for caustic action thereof, persons thus susceptible develop inflammation of the follicles or pores in the skin and, in some instances where reactions in the hair follicles is more severe, folliculitis or, in case of more severe infection of same type, carbuncles, which often have appearance of pimples and may conduce to formation of boils, and its said product was not and never had been endorsed or recommended by scientists or physicians;