

IN THE MATTER OF

AIR CONDITIONING TRAINING CORPORATION, AND BEN-
JAMIN M. KLEKNER, MORRIS A. GLUCK AND LEON J.
KNIGHTCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4182. Complaint, July 12, 1940—Decision, Mar. 27, 1941*

Where a corporation and three individuals, who were general officers thereof and formed, controlled, and directed its policies, acts, and practices, engaged in interstate sale and distribution of courses of study and instruction in air conditioning and refrigeration, together with books and material connected therewith, and one of the most extensive radio advertisers in the United States, in correspondence school field;

In advertising and soliciting the sale of and selling its said courses through radio continuities broadcast over more than 75 stations having interstate reception, under plan or practice by which it referred to a force of some 150 salesmen, operating out of 4 or 5 district offices, names of prospects who responded to its broadcasts, for solicitation in endeavor to sell their said course, with aid of much descriptive advertising literature; in its said broadcasts, advertising literature and particularly through its salesmen—

- (a) Represented that students who completed its courses were assured of employment in the industry involved, that jobs were guaranteed and promised, that they would secure students such employment, that there were vacancies in the industry in large numbers which were available to its said students, and that there was a great and unusual demand for men to fill the same;

Facts being, with very rare exceptions, students who completed their training were unable to find employment in the industry, members of which prefer graduates of universities with engineering degrees for installation of commercial equipment, while in field of service work supply of available men was generally much greater than demand, with men trained in the plumbing, electric and pipe-fitting trades generally available and preferred to correspondence school graduates, additional difficulties to whose employment were interposed in many of the larger centers by union regulations, and, contrary to above representations, it neither had nor succeeded in securing jobs for graduates, and opportunities in service field were being restricted rather than expanded by mechanical progress and prevailing practice;

- (b) Represented that the industry had designated school in question to train men for employment therein, that it was sponsoring such training and cooperating, and that members had arrangements with it for employing students who finished such training; and
- (c) Represented that courses were formed and framed by representatives of the industry who actively participated in the conduct of the school, and that their salesmen were "vocational directors" or experts in vocational guidance, engaged in selecting men of special qualifications for training;

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Facts being that while up to 1939, it featured an advisory board of executives of prominent manufacturers of air conditioning equipment, the board was used as an advertising feature, and it did not appear that it ever served any purpose or functioned in any manner; no members of industry actively cooperated in any manner in forming course of instruction, but merely supplied certain data; there was no connection between the school and the industry, but former was a purely private commercial undertaking; and said salesmen were not "vocational directors," etc., engaged as above set forth, but merely called upon all prospects and endeavored to secure contracts of sale from virtually all who could be induced to make a down payment;

- (d) Represented in virtually all cases, that a job at the conclusion of the training period was certain, and, in some instances, considerably exaggerated amount of wages to be earned, and represented that students, would be able to secure part-time work in servicing domestic refrigeration equipment while pursuing the course, and solicited and advisedly enrolled those with only limited education or without sufficient mechanical experience to comprehend course in question; notwithstanding that students were neither able nor qualified to secure such part-time work, and wages that graduates might receive were grossly exaggerated in that wage scale for trained men in the industry was not applicable to said graduates who had had no practical experience;
- (e) Represented, through its said salesmen, and contrary to contract provisions, that payment of the tuition fee could be made in small monthly installments, or be deferred until the student had obtained work in the industry, or had taken the laboratory training which they included and emphasized in their radio advertising, and for which there were no additional charges, and that if prospects found they were unable to continue, they could drop course at any time; and deceptively prevented reading of the contract, which eventually set forth provisions that additional fee was required for said laboratory training, that payment of tuition must be completed before student could enter laboratory, that school did not guarantee employment, and various other provisions of which prospect was not aware until he received copy of contract, which school considered unbreakable and, in many instances, brought suit to collect tuition fees of students who might never have taken more than one or two lessons or even returned all material without attempting to study course; and
- (f) Made representations with respect to the size, equipment, and facilities of their laboratory which were grossly exaggerated;

With tendency and capacity to mislead and deceive purchasers and prospective purchasers of said courses of study and instruction into the erroneous and mistaken belief that such representations were true, and to induce them to purchase and pursue such courses on account thereof:

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.

Before *Mr. John W. Addison*, *Mr. Lewis C. Russell*, and *Mr. William C. Reeves*, trial examiners.

Mr. William L. Pencke for the Commission.

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Mr. T. B. Knight, of Youngstown, Ohio, and *Kirkland Fleming, Green, Martin & Ellis*, of Washington, D. C., for respondents.

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 Air Conditioning Training Corporation, a corporation, and Benjamin M. Klekner, Morris A. Gluck, and Leon J. Knight, individually, and as officers of Air Conditioning Training Corporation, hereinafter referred to as respondents, have 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:

PARAGRAPH 1. Respondent, Air Conditioning Training Corporation, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business at 789 Wick Avenue, in the city of Youngstown, State of Ohio.

Respondents, Benjamin M. Klekner, Morris A. Gluck, and Leon J. Knight are president, vice president, and secretary-treasurer, respectively, of the respondent corporation, and as officers of said corporation, have their principal place of business and office at the aforesaid address of the respondent corporation, and they formulate, control, and direct the policies and practices of said respondent corporation.

PAR. 2. Respondent, Air Conditioning Training Corporation, is now, and has been for more than 2 years last past, engaged in the sale and distribution in commerce between and among the various States of the United States of courses of study and instruction in the subjects of air conditioning and refrigeration, which said courses of study and instruction are pursued by correspondence through the medium of the United States mail. Said corporate respondent, in the course and conduct of said business during the time aforesaid caused and does now cause its said courses of study and instruction, together with books and material connected therewith to be transported from its said place of business in Ohio to, into and through States of the United States other than Ohio to the purchasers thereof in such other States.

PAR. 3. Said corporate respondent, in soliciting the sale of and in selling its said courses of study and instruction, has made numerous misleading representations by one or more of the following methods, to wit: through its representatives engaged in soliciting the sale of such courses; in advertising matter and printed matter circulated or caused

to be circulated by said respondent by mail or otherwise to prospective students, enrolled students or to members of the public generally in various States of the United States; and in radio broadcasts to members of the general public, including prospective students. Among such misleading representations made by or through one or more of the said methods are representations that import or imply:

1. That students who complete said respondent's training are assured of employment in the air conditioning and refrigerating industry or that such jobs are guaranteed or promised or that they are certain to be secured.

2. That said respondent will secure employment for students who complete its training.

3. That said respondent's training is given in cooperation with the air conditioning and refrigeration industry or that said industry has designated said respondent to train men for employment therein or that such training is sponsored or given by the said industry or otherwise connected therewith, and that the members thereof will furnish employment to students who finish the same.

4. That the air conditioning and refrigeration industry is in need of men not available through usual channels; that vacancies in large number exist in said industry that are available to said respondent's students who complete its training; and that there is a great and unusual demand for men for jobs in said industry.

5. That representatives of the air conditioning and refrigeration industry formulated or assisted in the formulation of the course of study offered and actively participate in the conduct of the school and in the giving of instruction.

6. That said respondent's salesmen designated as "vocational directors" are experts in vocational guidance and that they are engaged in making selection of men of special qualifications for training for specific employment.

7. That students while pursuing said course will be able to secure part time work in servicing air conditioning and refrigeration equipment and that they will be qualified for such work.

8. That beginning wages in said industry are greater than they are in fact.

9. That persons solicited having only limited education or other insufficient background are qualified to pursue the course of instruction offered and to fill positions in said industry.

10. That the amount to be paid for the course is less than that provided in said respondent's contracts.

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11. That there are no fees or payments other than the stated tuition cost.

12. That laboratory or shop training may be taken as soon as the student completes and passes the correspondence course without advance settlement of payments subsequently due.

13. That the laboratory or shop equipment is of greater extent and more comprehensive than it is in fact.

PAR. 4. Among the statements of said corporate respondent in its radio broadcasts, advertising matter or literature circulated among the general public as described in the preceding paragraph, which import or imply one or more of the foregoing representations or which form a background for and encourage such representations by its agents and representatives, are the following:

The Air Conditioning Training Corporation offers a plan written through the cooperation of more than 60 leading producers * * * And listen to this—after you have completed your spare-time training you will then be given the opportunity to spend a period of two weeks at the Training Corporation's shop and laboratory and no matter where you live in the United States, traveling expenses which include a round trip to and from the shop, your room and board during the two weeks' stay at the shop are all a part of this great plan * * * when you have completed your training you will be entitled to receive the full benefits of the Employment Service Department.

* * * I'm going to tell you how you may become engaged in today's most rapid growing industry * * *

* * * Opportunity is knocking at your door right now. Opportunity in the field of air conditioning * * * there are literally hundreds of positions opening up for ambitious mechanically-minded men.

The business of air conditioning and refrigeration is constantly making new jobs for thousands of workers.

Through specialized training in this particular industry unskilled workers have risen to splendid positions of responsibility.

Within the next few years it will offer openings to several thousands of our ablest men.

A. C. T. C. graduates are "properly trained"—as the industry wants them trained * * *

Naturally, a new industry growing so fast, has, as one of its major problems, the scarcity of "properly trained" men. Thousands of new jobs are being created and thousands of men will be needed to fill these jobs. More men must be found who can be trained to do the fascinating phases of the work involved.

Only a short time ago a comparatively few men were employed in Air Conditioning and Refrigeration. Now thousands of men are working in this field and thousands upon thousands more will be employed in the future years to come. Lack of trained and competent men makes it easy for you to go right out, in your own neighborhood and solicit service work, soon after you begin this training, that should pay you \$5, \$10, and up to as much as \$15 a week, in your spare time.

Here's how you may qualify for the mechanical work of repairing, servicing and installing the millions of units now in use and being bought every day * * *

* * * Simply address a post card or a letter to Training Corporation in care of Station ——— and you will receive immediately full details on how to get started in this fascinating business the spare time way with training given by the Air Conditioning Training Corporation to help you succeed * * *

and many other representations of like tenor and effect or which carry implications of the nature set forth in the various misleading representations described in the preceding paragraph of this complaint.

PAR. 5. In truth and in fact students who complete said training are not assured of employment in the air conditioning and refrigeration industry, jobs are not certain to be obtained nor are they secured for such students by said corporate respondent. Only a very few of those finishing said training have secured positions in said industry. Said training is not given in cooperation with the air conditioning and refrigeration industry nor has said industry designated said corporate respondent to train men for employment therein. Said training is not sponsored or given by said industry nor is it otherwise connected therewith, but is a purely private commercial undertaking of the said individual respondents operating through said corporate respondent. Members of said industry have not, except in rare instances, furnished employment to students who have finished said training nor have they agreed to do so. The air conditioning and refrigeration industry is not, generally speaking, in need of men not available through usual channels. Most members of the industry train their own men and use a system of promotion for the filling of positions requiring experience and special technical skills. For skilled positions requiring education in the sciences involved in air conditioning and refrigerations, members of the industry secure most of their new employees from recognized engineering schools having resident students and a course of four years leading to a degree in engineering. The training given by said corporate respondent is not of this kind or extent. Vacancies do not exist in large numbers in said industry that are available either to students who complete said training or to others. There is not a great and unusual demand for men for jobs in said industry. Representatives of the air conditioning and refrigeration industry did not formulate or assist in the formulation of said course of study nor have they actively participated in the conduct of the school or in the giving of instruction. The course was formulated, the school is conducted and the instruction given wholly by the officers and employees of said corporate respondent. Said "Vocational Directors" are not experts in vocational guidance nor are they engaged

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in selecting men of special qualifications for training for specific employment but are merely salesmen who call upon all prospects available and secure contracts for the course from virtually all who can be induced to sign the same and pay the required down payments. Part time work in servicing air conditioning and refrigeration equipment is not available to students during the time they are pursuing said course nor are such students qualified for such work. Beginning wages in said industry are no higher than in other comparable lines of work. Persons without a high school education or its equivalent or extensive mechanical experience are not qualified to master the subjects necessary to be mastered in order to learn the technical and scientific phases of air conditioning and refrigeration or to successfully pursue said course or fill positions in said industry requiring technical skill and scientific knowledge. Said course is sold for certain definite sums depending upon the mode of payment. Representations by salesmen that less amounts will pay for the course are not in accordance with the facts and are not fulfilled by said corporate respondent. There are in fact additional fees and deposits required other than the stated tuition charge. Students are not entitled to take the laboratory or shop training until the full tuition price has been paid regardless of whether certain payments are not yet due at the time the student finishes the correspondence course. The laboratory or shop equipment of said school is not of the great extent and character, as represented by many of said corporate respondent's salesmen.

PAR. 6. The foregoing acts and practices used by respondents in connection with the offering for sale and sale of said courses of study and instruction have had, and now have, 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 and pursue such courses of study and instruction on account thereof.

PAR. 7. The aforesaid acts and practices of respondents 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 July 12, 1940, issued and subsequently served its complaint in this proceeding on the respondents, Air Conditioning Training Corporation, a corporation, and Benjamin M. Klekner, Morris A. Gluck, and Leon J. Knight, individually, and

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as officers of Air Conditioning Training Corporation, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the said act. After the issuance of said complaint and the filing of respondents' answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by William L. Pencke, attorney for the Commission, before examiners of the Commission theretofore duly designated by it, and said testimony and other evidence, were duly recorded and filed in the office of the Commission, including a stipulation which provides that respondents forego the presentation of evidence in their behalf and waive opportunity to file briefs and present oral argument or further contest the proceedings before the Commission and also waive the report of the trial examiners upon the evidence. Thereafter, this proceeding regularly came on for final hearing before the Commission on the complaint, the answer thereto, testimony and other evidence; and the Commission, having duly considered the matter, and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Air Conditioning Training Corporation, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business at 789 Wick Avenue, in the city of Youngstown, State of Ohio.

Respondents, Benjamin M. Klekner, Morris A. Gluck, and Leon J. Knight are president, vice president, and secretary-treasurer, respectively of the respondent corporation, and as officers of said corporation, have their principal place of business and office at the aforesaid address of the respondent corporation, and they formulate, control, and direct the policies and practices of said respondent corporation.

PAR. 2. Respondent, Air Conditioning Training Corporation, is now, and has been for more than 2 years last past, engaged in the sale and distribution in commerce between and among the various States of the United States of courses of study and instruction in the subjects of air conditioning and refrigeration, which said courses of study and instruction are pursued by correspondence through the medium of the United States mail. Said corporate respondent, in the course and conduct of said business during the time aforesaid caused and does now cause its said courses of study and instruction, together with books and material connected therewith to be transported from its said place

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of business in Ohio to, into and through States of the United States other than Ohio to the purchasers thereof in such other States.

PAR. 3. In the correspondence school field the corporate respondent is one of the most extensive radio advertisers in the United States, its radio continuities being broadcast over more than 75 radio stations having interstate reception. Very little use is made of newspaper advertising and direct mail solicitation. The names of prospects who respond to the broadcasts are referred to a force of approximately 150 salesmen operating out of four or five district offices, who solicit these prospects and endeavor to sell the course with the aid of much descriptive advertising literature.

For convenience, the air conditioning and refrigeration industry will hereinafter be referred to as the industry and the corporate respondent, Air Conditioning Training Corporation, will be hereinafter referred to as the respondent or the school.

The respondent, in soliciting the sale of and in selling its said courses of instruction, has made numerous misleading representations in its radio broadcasts, advertising literature, and particularly through its salesmen. These representations, among others, are to the following effect and import:

1. That graduates of respondent's course of training are assured of employment in the air conditioning and refrigeration industry; that jobs are either guaranteed or promised; and that the respondent will secure employment for its graduates.

2. That the industry has designated the respondent to train men for employment in the industry or that it is sponsoring the training or is otherwise cooperating with the school, and that members of the industry will furnish employment to graduates of the school; that representatives of the industry formulated or assisted in the formulation of the course of study and actively participate in the conduct of the school.

3. That vacancies in the industry exist in large numbers and that there is a great and unusual demand for men to fill these vacancies.

4. That the salesmen of the respondent designated as "vocational directors" are experts in vocational guidance and select only men of special qualifications.

5. That students, while pursuing such course, will be able to secure part-time work in servicing domestic refrigeration equipment and that they will be qualified for such work.

6. That beginning wages in the industry are greater than they are in fact.

7. That persons with only a limited education or without sufficient mechanical experience are qualified to comprehend the course of study.

8. That the payment of the tuition fee may be deferred until the student has obtained work in the industry or may be made after the student has taken the laboratory training; and that there are no additional charges to be made at the time of taking the shop training.

9. That the laboratory or shop equipment and teaching facilities are greater than they are in fact.

PAR. 4. Among the statements of said corporate respondent in its radio broadcasts, advertising matter or literature circulated among the general public as described in the preceding paragraph, which import or imply one or more of the foregoing representations or which form a background for and encourage such representations by its agents and representatives, are the following:

The Air Conditioning Training Corporation offers a plan written through the cooperation of more than 60 leading producers * * * And listen to this—after you have completed your spare-time training you will then be given the opportunity to spend a period of two weeks at the Training Corporation's shop and laboratory and no matter where you live in the United States, traveling expenses which include a round trip to and from the shop, your room and board during the two weeks' stay at the shop are all a part of this great plan * * * when you have completed your training you will be entitled to receive the full benefits of the Employment Service Department.

* * * I'm going to tell you how you may become engaged in today's most rapidly growing industry * * *

* * * Opportunity is knocking at your door right now. Opportunity in the field of air conditioning * * * there are literally hundreds of positions opening up for ambitious mechanically-minded men.

The business of air conditioning and refrigeration is constantly making new jobs for thousands of workers.

Through specialized training in this particular industry unskilled workers have risen to splendid positions of responsibility.

Within the next few years it will offer openings to several thousands of our ablest men.

A. C. T. C. graduates are "properly trained"—as the industry wants them trained * * *

Naturally, a new industry growing so fast, has, as one of its major problems, the scarcity of "properly trained" men. Thousands of new jobs are being created and thousands of men will be needed to fill these jobs. More men must be found who can be trained to do the fascinating phases of the work involved.

Only a short time ago a comparatively few men were employed in Air Conditioning and Refrigeration. Now thousands of men are working in this field and thousands upon thousands more will be employed in the future years to come. Lack of trained and competent men makes it easy for you to go right out, in your own neighborhood, and solicit service work, soon after you begin

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this training, that should pay you \$5, \$10, and up to as much as \$15 a week, in your spare time.

Here's how you may qualify for the mechanical work of repairing, servicing and installing the millions of units now in use and being bought every day * * *

* * * Simply address a post card or a letter to Training Corporation in care of Station ——— and you will receive immediately full details on how to get started in this fascinating business the spare time way with training given by the Air Conditioning Training Corporation to help you succeed * * *

and many other representations of like tenor and effect or which carry implications of the nature set forth in the various representations described in the preceding paragraph of this findings.

PAR. 5. The evidence shows, and the Commission finds, that with very rare exceptions students who have completed the training are unable to find employment in the industry and that members of the industry refuse to hire such graduates unless they can show substantial practical experience in addition to the training given by respondent. Most manufacturers and many distributors doing installation work of commercial equipment prefer to engage graduates from universities with engineering degrees. In the field of service work the supply of available men is generally much greater than the demand and is filled by men from the regular employment market. Generally, trained men are available from the plumbing, electric, and pipe-fitting trades, and they are preferred to graduates from correspondence schools who have no additional training. Moreover, in many larger centers the union regulations do not permit the hiring of men without experience who have not served their apprenticeship as prescribed by union regulations and who are not members of the union. The respondent does not have jobs available for its graduates. Upon completion of the course the student is requested to furnish the employment department of the school with the names of firms with whom he desires to file his application, and that department thereupon writes letters of recommendation to the firm named by the student. In one instance a student was given the names and addresses of 36 firms, none of which could offer the student a job. In another case a student was given the names of 8 firms and found that at least one of the firms had been out of business for some time and that another consisted of two former graduates of the school, and it was apparent that the lists of prospective employers were made up at random without any indication that they might have work to offer. All of the members of the industry who were called testified that the graduates of correspondence schools were not properly equipped to become competent em-

ployees of the industry, one of them stating that a diploma from a correspondence school would be the poorest recommendation a man could bring.

The annual enrollment is between 10,000 and 12,000 students, and in 1 year less than 70 graduates found employment, and not all of them in the industry, nor does the record show whether any of these 70 obtained their positions through the services of the school's employment department. An officer of the school estimated that perhaps twice as many graduates found employment of whom the school has no record.

It is the opinion of experts called by the Commission that neither the growth of the airconditioning and refrigeration industry nor the opportunities for employment therein are nearly as great as represented by the corporate respondent. The growth of the industry is no more than normal as compared with other industries. Specifically, with respect to the opportunities for men in the service field, it is pointed out that equipment generally, and particularly small domestic units, have been considerably simplified and that many sealed units which were formerly serviced by independent service men are now returned to the factory for service or repairs. The volume of the air conditioning business as expressed in money value is not necessarily an index to the opportunities for employment as is illustrated by air conditioning installations in large establishments which are taken care of by the resident engineer who may only require the service of an assistant or helper.

The names of many leading manufacturers in the air conditioning industry are prominently displayed in the advertising literature, and it is represented that many manufacturers have cooperated and actively participated in the formulation of the course of study. Up to 1939 the school featured an advisory board consisting of a number of executives of prominent manufacturers of air conditioning equipment. However, no meetings of the board were ever held, and it does not appear that it ever served any purpose or functioned in any manner, and the school announced early in 1939 that the board had been dissolved. The evidence shows, and the Commission finds, that no members of the industry actively cooperated in any manner in the formulation of the course of instruction, but merely supplied certain data; that the advisory board was used as an advertising feature; that there is no connection whatever between the respondent and the industry; and that the school is a purely private commercial undertaking of the individual respondents operating through the corporate respondent.

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The so-called "vocational directors" are not experts in vocational guidance, nor are they engaged in selecting men of special qualifications. They are salesmen who call upon all prospects and endeavor to secure contracts of sale for the course from virtually all who can be induced to subscribe for the course and make a down payment. On several occasions the prospects mentioned their limited educational qualifications but they nevertheless were solicited and enrolled by the salesmen and such enrollment was later confirmed by the school.

Virtually all of the salesmen hold out the certainty of a job at the conclusion of a training period as the greatest inducement to enroll, some of them promising to secure jobs in any territory designated by the prospect. In several instances the amount of wages to be earned was considerably exaggerated. In many instances the alleged participation of the industry in the conduct of the school is urged as a desirable feature of the training course. The record shows that on several occasions the salesmen obtained signatures to the contracts for the payment of the tuition by representing the instrument to be an application or something other than a contract to pay the tuition fee, and by a show of great urgency or other means prevented the prospect from reading the contract and acquainting himself with its terms. For a period of time the contract did not contain a provision to the effect that the student had to pay an additional fee upon entering the laboratory training at respondent's place of business in Youngstown, Ohio. The contracts presently used do contain a provision to that effect. The evidence shows, however, that in all instances salesmen refrained from calling attention to the additional fee and that the students were not aware of that requirement until they were so advised by letter immediately prior to entering upon their shop training. Salesmen frequently assured students that payment of the tuition fee could be made in small monthly installments and could be extended beyond the completion of the training itself, and that the shop training could be taken at any time after the student had completed his correspondence course regardless of whether the tuition had been paid in full. Many prospects were assured that if they found they were unable to continue with the course they could drop the course at any time upon discovering that they could not continue it either for financial reasons or because they were unable to comprehend it. The written contract provides that payment of tuition must be completed before the student can enter the laboratory; that an additional fee is required to take the shop training; that the school does not guarantee

employment and various other provisions of which the prospect is not aware until he receives a copy of the contract. The evidence shows and the Commission finds that the salesmen were paid upon a commission basis and that in addition to the commissions, prizes in money and valuables were offered to salesmen sending in the greatest number of enrollments in a given period.

The school considers the contract to be unbreakable and has in many instances brought suit for the collection of the tuition fees, although the student may never have taken more than one or two lessons or even returned all the material without attempting to study the course. In some instances, refunds were made but in several cases only after extensive correspondence between the school and a better business bureau.

When the school returns to the enrollee his copy of the contract it also furnishes him with a questionnaire, the alleged purpose of which is to have the student advise the school whether he fully understands the terms of the contract and whether the salesman has conducted himself properly. This questionnaire, because of its phraseology and form, however, is not calculated to put a student on notice that its purpose is to afford him an opportunity to complain about the salesman, and the record does not show that any of the student witnesses advised the school through the medium of said questionnaire that the salesmen had made representations different from the terms of the written contract. Several of the prospects had no education beyond the eighth grade, and it appears that some of them found the lessons too difficult to comprehend and discontinued the course for that reason. An examination of the course of instruction discloses that a student must possess a fundamental knowledge of mathematics, algebra, chemistry, physical science, and electricity necessary to comprehend the course of training and apply the knowledge gained to the practical problems with which service men of air conditioning equipment have to deal. On several occasions the prospects called the salesman's attention to their evident lack of qualifications. This included a 14-year-old boy, whose deposit was refunded only after his mother had complained to the Better Business Bureau. In a number of instances representations in the advertising literature and statements by the salesmen are to the effect that students may obtain part-time work after having studied the course for some time and thereby earn a sufficient amount to enable them to pay the tuition fee by servicing domestic refrigerators. The evidence does not show that students did in fact secure such part-time work or that they would be qualified to do it.

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The record shows that the Better Business Bureau of New York City, since 1937 had received 37 complaints, which constitutes the largest number of complaints against any one concern received by that bureau; that many of the complaints dealt with the misrepresentations made by one salesman, who was discharged by the respondent after a correspondence with the Better Business Bureau extending over a year.

The Commission finds that the representations with respect to the size, equipment, and facilities of the laboratory contained in the advertising literature and made by the salesmen are grossly exaggerated. Up to 1939, the equipment consisted of a number of old models of refrigerators to which a number of new units have been added recently. In 1938, only one instructor had charge of the shop, and in 1939, there were two instructors and a graduate of respondent's school who had charge of the laboratory instruction. At the present time there are four instructors who supervise the laboratory classes, which consist of about 30 pupils and who, in addition, correct all the papers sent in by the correspondence pupils.

The evidence shows, and the Commission finds, that the representations with respect to the wages that the graduates of the school may receive are grossly exaggerated for the reason that the wage scale which is paid to trained men in the industry is not applicable to graduates of respondent's school who have had no practical experience in the industry.

PAR. 6. The foregoing acts and practices used by respondents in connection with the offering for sale and sale of said courses of study and instruction have had, and now have, the tendency and capacity to and do mislead purchasers and prospective purchasers thereof into the erroneous and mistaken belief that such representations are true, and to induce them to purchase and pursue such courses of study and instruction on account thereof.

CONCLUSION

The aforesaid acts and practices of respondents as set forth in the foregoing findings as to the facts 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, the answer of re

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spondents, testimony and other evidence in support of the allegations of the complaint, the filing of briefs and oral arguments having been waived, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Air Conditioning Training Corporation, a corporation, and its officers, and Benjamin M. Klekner, Morris A. Gluck, and Leon J. Knight, individually, and as officers of Air Conditioning Training Corporation, their respective representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution in commerce as commerce is defined in the Federal Trade Commission Act of courses of study and instruction in the subjects of air conditioning and refrigeration which are conducted in whole or in part by correspondence do forthwith cease and desist from representing directly or by implication:

1. That students who complete said courses of training are assured of employment in the Air Conditioning and Refrigeration Industry or that jobs are guaranteed to such students or that respondents will secure such employment for said students.

2. That said courses of study and instruction are given with the cooperation of the Air Conditioning and Refrigeration Industry or that said industry has designated respondents to train men for employment therein or that such training is sponsored by such industry or that members of such industry have any arrangements with respondents for furnishing employment to students who finish said training.

3. That large numbers of vacancies which are available to said students who complete said training exist in the Air Conditioning and Refrigeration Industry or that there is an unusual demand for men in said industry or that such demand cannot be satisfied through the usual channels.

4. That members of the Air Conditioning and Refrigeration Industry formulated or assisted in the formulation of said courses of study and actively participated in the conduct of the school.

5. That respondents' salesmen are vocational directors or experts in vocational guidance engaged in selecting men of special qualifications for training in the Air Conditioning and Refrigeration Industry or are anything other than salesmen.

6. That part-time work in servicing air conditioning and refrigeration equipment is available to students while pursuing said courses of study and that said students are qualified for such work.

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7. That starting wages for respondents' graduates are higher than the wages customarily paid to beginners or apprentices in said industry.

8. That any persons other than those with previous mechanical experience or who have demonstrated an aptitude for mechanics are qualified to pursue respondents' course of study and occupy positions in the Air Conditioning and Refrigeration Industry, requiring technical skill and scientific knowledge.

9. That the tuition fee is less than the amount stated in respondents' contract or that there are no charges other than the cost of tuition or that students may take the laboratory training without completion of the tuition payments.

10. That the laboratory or shop equipment is of greater extent and more comprehensive than it is in fact.

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

Syllabus

IN THE MATTER OF
CHERRY SPECIALTY COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914*Docket 3215. Complaint, Aug. 26, 1937—Decision, Apr. 3, 1941*

Where a corporation engaged in the manufacture of candy and in the competitive interstate sale and distribution thereof, including certain assortments composed of a number of boxes of chocolate covered cherries, together with an electric lamp to be offered by the retailer as a prize to the ultimate purchaser of one of the boxes, and also a circular for retailer's use in disposing of candy in accordance with sales plan involving use of a lottery scheme or game of chance as indicated thereon, and as often carried out by the retailer through use of punch cards or other device by which the price to be paid for box of candy by the ultimate purchaser was determined by lot or chance—

(a) Sold such assortments to wholesalers, jobbers, and retailers by whom they were exposed for sale to the purchasing public in accordance with aforesaid sales plan, and thereby supplied to and placed in the hands of others means of conducting lotteries in the sale of its products in accordance with such plan, contrary to an established public policy of the United States Government and in competition with many who do not sell their merchandise by means of a lottery scheme or chance device;

With result that many persons were attracted by said chance sales plan or method and were induced to buy its product in preference to that of aforesaid competitors who do not use same or equivalent methods in the sale thereof, whereby trade in commerce was unfairly diverted to it from such competitors; and

(b) Represented that its said product had been examined and approved and certified by an independent and unbiased agency, unconnected with it, through placing on each package of its said products a replica of a red banner bearing the words "Seal of Approval" above an eight-pointed star with a circular seal in its center containing the words "Certified Chocolate Cherries" and its corporate name in smaller letters on the rim, and furthered said misrepresentation by supplying retail dealers with price cards upon which was conspicuously displayed the eight-pointed star and the "Seal of Approval" banner and the statement, among others, "Only selected, luscious, whole maraschino type cherries, enrobed in rich chocolate, and made under sanitary, wholesome conditions can merit this seal of approval";

Facts being that while it did thereafter and subsequent to complaint submit its said candy to an independent agency for examination and received latter's seal of approval, said candy theretofore had not been thus examined and approved or certified;

With capacity and tendency to mislead a substantial portion of the purchasing public into the erroneous belief that said cherries were approved and certified by an independent and unbiased agency engaged in such activities and not connected with it, whereby substantial quantities of its candy were pur-