

Syllabus

IN THE MATTER OF

STEPHENSON LABORATORIES TRUST, ETC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1911

Docket 3622. Complaint, Oct. 4, 1938—Decision, May 29, 1941

Where a corporation engaged in the licensing of others to manufacture arch supports under United States letters patent and certain contrivances designated as foot exercisers, and in interstate sale to licensees, of a correspondence course of instruction in the manufacture of said articles and for their application in a system or plan of correction of foot troubles, in substantial competition with others engaged in the sale and distribution in commerce of arch supports and of correspondence courses by mail designed to render purchasers proficient in some line of business endeavor intended to increase their earning power—

- (a) Made use of term "Laboratories" in the name employed by it and through use of such representations circulated to prospective customers as "Stephenson Laboratories Trust," "Stephenson Laboratory," and that Stephenson Laboratory was a pioneer in the making of arch supports to individual impressions represented directly and by implication that its devices, system of correction, and instruction with respect thereto, were developed in and disseminated by a laboratory;

Facts being that its so-called laboratory was merely a workroom containing the materials and tools necessary to make arch supports and foot exercisers, and not a place equipped for scientific research, nor staffed by anyone having any medical education or other special training qualifying him for research with respect to the correction of foot troubles;

- (b) Represented in advertisements of its said courses and manufacturing licenses in magazines and periodicals of general circulation and through circulars, pamphlets, and other printed or written matter, that the structure of the foot was simple; that anyone of ordinary intelligence who mastered the course would thereby become sufficiently learned and proficient to distinguish between all surgical and nonsurgical foot conditions, and to cure or overcome all foot troubles not requiring operative surgery; and that application of its system of foot culture, foot exercise and arch supports would correct and overcome all such foot troubles and could not fail to produce successful results;

The facts being, structure of the foot is not simple, but complex; proper diagnosis is a necessary preliminary to the treatment of any foot trouble; many ailments of the foot may be due in whole or in part to systemic causes which require knowledge of the entire body for proper diagnosis and treatment; in many such instances complete mastery of its courses would not supply information needed, which could not be given by correspondence; application of its said system will not cure all foot troubles with unfailing success, since there are many foot troubles not requiring operative surgery for which arch supports and exercisers are not appropriate;

- (c) Represented further, as aforesaid, that its system prepared the student to treat successfully many specific foot troubles including (1) weak feet, flat

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feet, fallen arches, chilblains, callouses, and corns; (2) Morton's toe, hammer toe, and bunion; (3) stretched ligaments; (4) aching feet, excessive or insufficient perspiration, foot neuralgia, painful heel, and enlarged joints; and (5) misalignment of the heel;

The facts being, weak feet, flat feet, and other ailments and conditions above set out in many cases are not amenable to cure or treatment by arch supports and exercises; Morton's toe, hammer toe, and bunions frequently can be remedied only by surgery; stretched ligaments are treated in part by immobilization, and exercise is not a part of any competent treatment therefor; aching feet and other conditions set forth in aforesaid connection, are in many cases due or partly due to systemic as distinct from local foot conditions and are not amenable to successful treatment by application of arch supports or exercise; and misalignment of the heel may be due to many causes, some of which are not susceptible to effective treatment by aforesaid means; and

- (d) Represented that purchasers of its course would be taught to get trade without soliciting, delay, or expense and that those who mastered same were assured of a paying business and could earn a big income;

Facts being it had no information concerning the success or failure of all purchasers of its course; it is common knowledge that all persons who enter any given line of endeavor are not successful and do not make large incomes; and statements with respect to financial rewards were false and misleading;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the false and erroneous belief that said representations and implications were true and with result, as consequence, that a number of the consuming public purchased said licenses and courses, and trade was thereby unfairly diverted to it from competitors who do not resort to misrepresentations;

Held, That such acts and practices were all to the prejudice of the public and competitors, and constituted unfair methods of competition in commerce and unfair and deceptive acts and practices therein.

Before *Mr. Miles J. Furnas*, trial examiner.

Mr. Randolph W. Branch for the Commission.

Mr. Maxwell McConnell, of Boston, Mass., for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that Stephenson Laboratories Trust, a Massachusetts trust, trading and doing business in its own name and also under the name of Stephenson Laboratory, 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, Stephenson Laboratories Trust, is a Massachusetts trust trading and doing business under its own name and also under the name of Stephenson Laboratory, with its principal place of business at 5 Irvington Street, in the city of Boston, Commonwealth of Massachusetts.

PAR. 2. Respondent is now, and has been for the 3 years last past, engaged in the business of selling instruction in the design and manufacture of arch supports, licenses to manufacture the same under certain United States Letters Patent held by respondent, instruction in, and for the application of, a system of foot correction and culture prepared by respondent or its predecessor, and licenses for the manufacture of "foot exercisers" under certain United States Letters Patent held by respondent.

Respondent causes and has caused the said courses of instruction and licenses, when sold, to be transported from the place where its business is carried on in the Commonwealth of Massachusetts, to purchasers thereof located in States of the United States other than the Commonwealth of Massachusetts and in the District of Columbia.

PAR. 3. In the course and conduct of its said business, respondent is now and has been for more than 3 years last past in substantial competition with other firms and with individuals, partnerships, and corporations engaged in the sale and distribution in commerce between and among the various States of the United States and in the District of Columbia, of arch supports and of courses of instructions, to be carried on by correspondence through the mails, designed to educate the student for and render him proficient in some particular line of business endeavor.

PAR. 4. In the course and conduct of its said business, and for the purpose of inducing the purchase of its said courses of instruction and manufacturing licenses, respondent has caused circulars and pamphlets containing certain claims with respect to its courses and devices, the proficiency and ability which will be acquired, and the financial rewards to be anticipated, by the student who purchases said manufacturing licenses and masters said course or courses of instruction, to be distributed between and among the various States of the United States and in the District of Columbia, and has caused certain advertisements with respect thereto to be inserted in magazines and periodicals of general circularization between and among the various States of the United States and in the District of Columbia.

Included among and typical of such claims are the following:

We * * * teach you the simple construction of the foot * * *

The course of instructions is divided into two branches; both are equally easy to master by any lady or gentleman of ordinary intelligence who can read and write.

You can enter this new field of arch support making and foot culture exercises by becoming proficient in this work.

He devised a scientific functioning support and "short-cut" method of making and fitting supports to individual impression, and foot exercise methods for overcoming all foot difficulties that do not require operative surgery, such as described on page one of the pamphlet, "What is Physical Foot Culture and Other Questions Answered."

These foot exercisers * * * are rented or sold outright to the foot sufferer, who uses these or any other instructions taught him in his own home a few minutes daily, which overcomes weak feet, flat foot, distorted toes, painful heel, aching, sweaty or too dry feet, chilblains, callouses, foot neuralgia, hammer or Morton's toes, prevents corns, bunions, etc., by correcting them at their source. The results are positive * * *.

The foot has 26 delicately suspended small bones very easily displaced. Weak feet, falling arches, flat foot, crooked toes, stretched ligaments, enlarged joints, bunions and callosities are not natural to normal feet and will disappear through foot culture methods and adjustment by this system, which admits of no failure in cases not requiring operative surgery, and by wearing the proper made to impression supports; it is one hundred per cent efficient.

A sufferer is taught * * * all needful information about * * * other conditions necessary to sound, strong, vigorous feet.

In Plan A you are licensed under Patent No. 1901353 to use our method of correcting misalignment of the heel and misplacement of the anterior or metatarsal arch * * *.

Some offer their services for a certain amount * * * this can be safely done as there need be no failures under this system of correction.

There are no "ifs" or "guess sos" about this business paying, it does * * *
* * * we took over his patents to license and instruct this system to others, it being a method that can be easily and thoroughly taught by mail.

We can teach you these methods in your own home in ten weeks, by taking one instruction lesson a week, or in as short a time as 30 days if you prefer to do so, although you can take as much time as you wish to complete the instructions.

Years of experience of other operators have taught just how to get trade without soliciting, delay or expense.

Do you want a new business profession of your own with all the trade you can attend to? Then become a foot correctionist, and in a few weeks earn big income in service fees—not medical nor chiropody—easy terms for home training. No further capital needed, no goods to buy, no agency.

We desire only a limited number of students and refuse many enrollments from those who let fear or doubt sit at the helm * * *.

By the said statements and others of like import and effect in its said circulars, pamphlets, and advertisements respondent represents:

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That the structure of the foot is simple; that anyone of ordinary intelligence who can read and write can master the courses in the design and fabrication of arch supports to suit individual requirements and in physical foot culture; that by such mastery the student will be sufficiently learned and proficient to diagnose, and to classify as surgical or nonsurgical, foot conditions that require arch supports and to design and fabricate them in the appropriate fashion, and will be qualified as a "foot correctionist"; that a foot correctionist is able to diagnose and to classify as surgical or nonsurgical, and by the application of respondent's system of foot culture, and patented foot exercisers and arch supports, to correct and overcome all foot troubles other than those requiring operative surgery, including loss of muscular tone and elasticity, weak feet, flat feet, falling arches, distorted toes, painful heel, stretched ligaments, enlarged joints, aching, sweaty or too dry feet, chilblains, callouses, foot neuralgia, hammer or Morton's toe, prevent corns and bunions, put the foot in a natural condition, make it strong, sound and vigorous, and correct misalignment of the heel and misplacement of the anterior or metatarsal arch; that respondent's system is positive and cannot fail to produce successful results; that these courses can be easily and thoroughly taught by mail and quickly mastered by the student; that the student will be taught how to get trade without solicitation, delay, or expense; that a paying business is assured; that the student can earn a big income, and that respondent desires only a limited number of students.

PAR. 5. In addition to the claims set forth in paragraph 4, respondent, in like manner has caused certain claims to be made with respect to its business and scientific status, and the origin of its devices and courses of instruction.

Included among and typical of such claims are the following:

Stephenson Laboratories Trust

Stephenson Laboratory

The Stephenson Laboratory was an early pioneer in the making of arch supports to individual impressions * * *

By the said statements and others of like import and significance, respondent directly and by inference represents that its devices, system of correction, and instruction in the design, manufacture, and application thereof were and are developed in and emanate from a "laboratory," within the common and usual meaning of the word when used in connection with the design and manufacture of devices for application to, and courses of instruction in the remedy or correction of abnormal or painful conditions of the human body, i. e., a place appropriately equipped for, and devoted to, experimental study in the anatomical, physiological, and mechanical sciences and arts,

and their application in the devising of the said articles and the compilation of courses of instruction by persons skilled in those arts and sciences.

PAR. 6. The representations made by the respondent, directly or by inference, with respect to the knowledge, ability, and proficiency to be gained from a mastery of the said courses, the results to be obtained from the application of such knowledge either in connection with the said arch supports or foot exercisers of the respondent's design or without such connection, the extent of the financial rewards available to one who becomes, through the study of the respondent's courses, proficient in the art of designing and fabricating arch supports or the respondent's system of foot cultivation, and the ease with which custom may be obtained, are false, misleading, and untrue. In truth and in fact the structure of the foot is not simple. The adequate correction of arch troubles, and deformations, diseases, and faulty conditions and ailments of the feet, and the proper designing of arch supports, require, as a preliminary, a diagnosis which can be properly made only by one familiar not only with the structure and physiology of the feet but that of the rest of the body. The knowledge necessary to a competent arch support designer or foot correctionist for the proper diagnosis of all foot troubles and conditions other than those requiring operative surgery and the application of adequate corrective or curative methods thereto by arch supports or exercisers or otherwise, and the prevention of corns and bunions, cannot be imparted by mail in the short time indicated by respondent to the ordinary literate person. A proper arch support cannot be made by one without substantial practical experience. Those mastering the courses in foot correction cannot in all cases of nonsurgical foot conditions or diseases be assured of positive and successful results from the use of the corrective system as taught, either with or without the use of exercisers of respondent's design or arch supports made and fitted in accordance with respondent's instructions. The student is not assured of a profitable business by completing the course or courses nor of a big income. Neither is the student assured that he will be able to obtain trade without solicitation, delay, or expense. There is no material limitation on the number of students desired by respondent.

PAR. 7. The representations made by respondent directly or by inference with respect to its business and scientific status and the origin of its devices and courses of instruction are false, misleading, and untrue. In truth and in fact the said devices and courses of instruction were not and are not developed and compiled in a lab-

oratory, within the common and usual conception of the word when used in connection with the design and manufacture of devices for application to and courses of instruction in the remedy or correction of abnormal or painful conditions of the human body, nor by persons skilled and experienced in the anatomical and physiological sciences.

PAR. 8. There are among the competitors of the respondent many who are engaged in the business of selling and distributing arch supports, and correspondence courses of instruction designed to educate the student for and render him proficient in some particular line of business endeavor, who do not in any way misrepresent the results which may be obtained by the use of their said arch supports, the efficacy of the application or the results of their teachings, the opportunities for financial gain to those who master the said courses or the nature of the place of origin thereof.

PAR. 9. Each and all of the foregoing false and misleading misrepresentations and implications made by respondent, as hereinabove set out, were and are calculated to, and have had and now have, a tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the false and erroneous belief that the said misrepresentations and implications are true. As a direct result of such false and erroneous belief a number of the consuming public have purchased substantial amounts of respondent's licenses to manufacture and courses of instruction, with the result that trade has been diverted unfairly to respondent from respondent's competitors as aforesaid who do not resort to such false and deceptive representations. As a consequence thereof, injury has been and is now being done by respondent to competition in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 10. The aforesaid acts and practices of said respondent as herein alleged are all to the prejudice of the public and of respondent's competitors, and constitute unfair methods of competition in commerce, and 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 October 4, 1938, issued its complaint in this proceeding and caused same to be served upon respondent Stephenson Laboratories Trust, a Massachusetts trust trading and

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doing business under its own name and also under the trade name and style of Stephenson Laboratory, charging it with the use of unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of answer thereto by respondent, testimony and other evidence in support of the allegations of said complaint were introduced by Randolph W. Branch, attorney for the Commission, and in opposition to the allegations of the complaint by Maxwell McConnell, attorney for the respondent, before Miles J. Furnas, an examiner for the Commission theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter the proceeding regularly came on for final hearing before the Commission on the said complaint, the answer thereto, testimony and other evidence, a stipulation of certain facts, report of the trial examiner, and brief in support of the complaint (no brief having been filed by respondent and oral argument not having been requested); 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 Stephenson Laboratories Trust is a Massachusetts trust having its principal place of business at 5 Irvington Street, Boston, Mass. Respondent trades and does business under its own name and also under the name Stephenson Laboratory. Respondent is, and at all times mentioned in the complaint has been, engaged in the licensing of others to manufacture arch supports under certain United States letters patent and certain contrivances designated as "foot exercisers," and in connection with such licenses selling to licensees a correspondence course of instruction in the manufacture of said articles and for their application in a system or plan of correction of food troubles.

PAR. 2. In the course and conduct of this business respondent has caused said courses of instruction, licenses, and articles of merchandise for use in connection therewith, when sold, to be transported from its place of business in the State of Massachusetts to purchasers thereof located in the several States of the United States other than the State of Massachusetts and in the District of Columbia, and has at all times maintained a course of trade in commerce in said articles as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of said business respondent is now, and at all times mentioned in the complaint has been, in substantial competition with other firms, individuals, partnerships, and corporations engaged in the sale and distribution in commerce of arch supports and of courses of instruction carried on by correspondence through the mails, and designed to render purchasers proficient in some line of business endeavor intended to increase their earning power.

PAR. 4. For the purpose of inducing or procuring the purchase of its said courses of instruction and manufacturing licenses, respondent has caused certain advertisements with respect thereto to be inserted in magazines and periodicals having general circulation between and among the various States of the United States and in the District of Columbia and has caused circulars, pamphlets, and other printed or written material to be transported from its place of business to purchasers or prospective purchasers in the several States of the United States and in the District of Columbia.

The said circulars, pamphlets, and other printed or written material and advertisements make various claims with respect to respondent's courses and devices, the learning and proficiency to be acquired therefrom, and the financial rewards to be anticipated by purchasers of said licenses and courses of instruction. Included among and typical of such claims and representations were the following:

We * * * teach you the simple construction of the foot * * *.

The course of instructions is divided into two branches; both are equally easy to master by any lady or gentleman of ordinary intelligence who can read and write.

You can enter this new field of arch support making and foot culture exercises by becoming proficient in this work.

* * * he devised a scientific functioning support and "short cut" method of making and fitting supports to individual impression, and foot exercise methods for overcoming all foot difficulties that do not require operative surgery, such as described on page one of the pamphlet. "What is Physical Foot Culture and Other Questions Answered."

These foot exercisers * * * are rented or sold outright to the foot sufferer, who uses these or any other instructions taught him in his own home a few minutes daily, which overcomes weak feet, flat foot, distorted toes, painful heel, aching, sweaty, or too dry feet, chilblains, callouses, foot neuralgia, hammer or Morton's toes, prevents corns, bunions, etc., by correcting them at their source. The results are positive, * * *.

The foot has twenty-six delicately suspended small bones very easily displaced. Weak feet, falling arches, flat foot, crooked toes, stretched ligaments, enlarged joints, bunions and callosities are not natural to normal feet and will disappear through foot culture methods and adjustment by this system, which admits of no failure in cases not requiring operative surgery, and by wearing

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the proper made to impression supports; it is one hundred percent efficient * * *

A sufferer is taught * * * all needful information about * * * other conditions necessary to sound, strong, vigorous feet.

In plan A you are licensed under Patent No. 1,901,352 to use our method of correcting misalignment of the heel and misplacement of the anterior, or metatarsal arch, * * *.

Some offer their services for a certain amount, * * * this can safely be done as there need be no failures under this system of correction.

There are no "ifs" or "guess so's" about this business paying, it does it; * * *.

* * * we took over his patents to license and instruct this system to others, it being a method that can be easily and thoroughly taught by mail.

We can teach you these methods in your own home in ten weeks, by taking one instruction lesson a week, or in as short a time as thirty days if you prefer to do so, although you can take as much time as you wish to complete the instructions.

Years of experience of other operators have taught just how to get trade without soliciting, delay or expense.

Do you want a new business profession of your own, with all the trade you can attend to? Then become a foot correctionist, and in a few weeks earn big income in service fees—not medical nor chiropody—easy terms for home training, no further capital needed, no goods to buy, no agency.

We desire only a limited number of students and refuse many enrollments from those who let fear and doubt sit at the helm, * * *.

PAR. 5. The representations by respondent that the structure of the human foot is simple are false in that the foot is in fact a complex structure including numerous bones and their articulations, muscles, ligaments, tendons, nerve, and blood supply systems, and other essential parts. The representations that any one of ordinary intelligence who masters respondent's course of instruction will thereby become sufficiently learned and proficient to distinguish between all surgical and nonsurgical foot conditions and will be able to cure or overcome all foot troubles not requiring operative surgery, and that such learning and proficiency can be imparted by mail, are in fact false. Proper diagnosis is a necessary preliminary to the treatment of any foot trouble. Many ailments of the foot are not due to local causes and others may be due in whole or in part to systemic causes which require knowledge of the entire body for proper diagnosis and treatment. Complete mastery of respondent's courses would not supply the information needed in many such instances, nor could the necessary information and training be given by correspondence. Respondent's representations that the application of its system of foot culture, foot exercises, and arch supports will correct and overcome all foot troubles other than those requiring operative surgery, and cannot fail to produce successful results, are false. Arch supports and exercise are not

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appropriate or competent treatment for many foot troubles which do not require operative surgery.

The representations as to specific foot troubles which respondent's system is said to prepare the student to treat successfully are false in that weak feet, flat feet, fallen arches, chilblains, callouses, and corns are in many cases not amenable to cure or treatment by arch supports and exercises; Morton's toe, hammer toe, and bunions frequently can be remedied only by surgery, and in many cases cannot be adequately or properly treated by arch supports or exercises; stretched ligaments are treated in part by immobilization, and exercise is not a part of any competent treatment therefor; aching feet, excessive or insufficient perspiration, foot neuralgia, painful heel, and enlarged joints, are in many cases due or partly due to systemic as distinct from local foot conditions, and are not amenable to successful treatment by the application of arch supports or exercise; and misalignment of the heel may be due to many causes, some of which are not susceptible to effective treatment by supports and exercise.

Respondent's representations that purchasers of its course of instruction will be taught to get trade without soliciting, delay, or expense, and that those who master its course are assured of a paying business and can earn a big income, are without foundation in fact. Respondent has no information concerning the success or failure of all purchasers of its course of instruction, and one of its trustees testified that it has no means of knowing whether a purchaser of its course of instruction will or will not develop a profitable business, and that such success is largely dependent upon the individual. It is common knowledge that all persons who enter any given line of endeavor are not successful and do not make large incomes, and it is concluded that respondent's statements with respect to financial rewards to be obtained are in the circumstances stated false and misleading.

PAR. 6. By the means set out in paragraph 4 respondent circulates to purchasers or prospective purchasers of its licenses and courses of instruction representations such as:

Stephenson Laboratories Trust,
Stephenson Laboratory,

The Stephenson Laboratory was a pioneer in the making of arch supports to individual impressions.

By such representations respondent directly and by inference represents that its devices, system of correction, and instruction with respect thereto were, and are, developed in and are disseminated by a "laboratory." In the manner and connection in which the term "laboratory" is used by respondent it means a place appropriately

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equipped for and devoted to experimental study in anatomical, physiological, and mechanical sciences and arts and their application by persons skilled therein to devising the articles and preparation of the courses of instruction offered by respondent. Respondent in fact maintains no laboratory. The so-called laboratory of respondent is merely a workroom containing the materials and tools necessary to make arch supports and foot exercisers, and is not a place equipped for scientific research, nor is it staffed by any person or persons having any medical education or other special training or education qualifying them for research with respect to the correction of foot troubles.

PAR. 7. The aforesaid representations are calculated to, and have the tendency and capacity to, mislead and deceive a substantial portion of the purchasing public into the false and erroneous belief that said representations and implications are true. As a result thereof a number of the consuming public have purchased respondent's licenses to manufacture and courses of instruction with the result that trade has been unfairly diverted to respondent from competitors who do not resort to false and deceptive representations.

CONCLUSION

The aforesaid acts and practices of respondent are all to the prejudice of the public and of respondent's competitors and constitute unfair methods of competition in commerce and 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 respondent, testimony, and other evidence in support of the allegations of said complaint and in opposition thereto taken before an examiner of the Commission theretofore duly designated by it, a stipulation of certain facts, report of the trial examiner, and brief in support of the complaint (no brief having been filed by respondent and oral argument not having been requested); 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 respondent Stephenson Laboratories Trust, a Massachusetts trust also trading and doing business under the name Stephenson Laboratory, its trustees, officers, agents, representatives, and employees, directly or through any corporate or other device, in

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connection with the offering for sale, sale, and distribution in commerce, as commerce is defined in the Federal Trade Commission Act, of licenses to manufacture foot supports and foot exercisers, and courses of instruction in the treatment of foot troubles, do forthwith cease and desist from, directly or by implication:

1. Using the terms "Laboratory" or "Laboratories," or any other word or term of similar import or meaning, in respondent's name or in any trade name or style used by respondent in the course and conduct of its business, or otherwise representing in any manner that respondent maintains a laboratory in which its system of foot culture or courses of instruction therein were, or are, developed or prepared.

2. Representing that respondent's course of instruction, or any substantially similar course of instruction, will equip any one with learning and proficiency adequate to:

(a) Diagnose and determine whether or not foot troubles require surgical treatment.

(b) Effectively and successfully treat nonsurgical foot troubles, regardless of origin or cause thereof.

(c) Effectively and successfully treat foot troubles which may result from systemic causes, such as aching feet, excessive or insufficient perspiration, foot neuralgia, painful heel, and enlarged joints; or foot troubles which may require operative surgery, such as Morton's toe, hammer toe, and bunions; or foot troubles which require immobilization as a part of any competent and adequate treatment, such as stretched ligaments, exclusively by foot supports and exercise.

3. Representing that any purchaser who masters respondent's correspondence course is assured of a profitable business or will be able to obtain trade without solicitation, delay, or expense.

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

IN THE MATTER OF
EDWIN CIGAR COMPANY, INC., ET AL.

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

Docket 4085. Complaint, Apr. 6, 1940—Decision, May 29, 1941

Where two corporations and four individuals who were officers, directors or stockholders therein and controlled their corporate activities; engaged, as case might be, in manufacturing cigars and in competitive interstate sale and distribution thereof, and of pipes, smoking tobacco, tobacco pouches, pipe and tobacco accessories, razor blades, shaving cream and novelties, under various corporate and trade names; in advertising their products by radio and through newspapers, magazines, catalogs and other medium—

- (a) Represented that Manila cigars, offered at a price of 1 cent each were full-sized, full-bodied and fine-flavored; that cigars offered as a \$2.50 bargain for 75 cents constituted a special offer and had the full-bodied natural aroma of rich Havana and Connecticut blended tobacco; that certain cigars offered at a "get acquainted" price of 25 for 75 cents or 3 cents each were of guaranteed 15 cent quality and were over-runs or cigars put aside for slight imperfections; that certain cigars selling for 3 cents each were made of genuine imported Havana tobacco by use of the words "GENUINE IMPORTED HAVANA" in heavy display type, accompanied by the qualification "The finest Conn. Shade-Grown and Broad-leaf tobaccos blended with," in inconspicuous and small type; that cigars offered in a close-out sale for 3 cents were perfect hand-made Lord Edwin Ambassador cigars selling for 35 years for 10 cents each and contained the choicest tobaccos, including Havana; and that cigars priced at 2 cents each or 100 for \$1.96 were perfect cigars, 5¼ inches in length, were fine, hand-made, blended-with-Havana cigars and equal in smoking satisfaction to those selling for 10 cents and more;

The facts being Manila cigars referred to were of small size and defective quality, the \$2.50 bargain for 75 cents, cigars had fillers of cheap domestic tobaccos originating elsewhere than in Connecticut and containing negligible amounts of Havana tobacco, if any, none of the various cigars sold at 3 cents each, were over-runs, etc., as above claimed, but all were of cheap and inferior quality, were not perfect, fine or hand-made, cigars, contained only a negligible amount of Havana tobacco, if any, and did not in any way comply with standards set up for Havana-manufactured cigars;

- (b) Represented that certain items of merchandise such as a cigar lighter, a chrome metal pocket cigar case, a 128-page illustrated book selling at book shops at \$2.50, and a handsome pocket cigar case were given free with purchase of a certain specified quantity of cigars or of certain pipes valued at \$2.50 each, that cigars were given "free of charge" in connection with the purchase of various lots of cigars, and that various lots were being sold at "inventory sales prices" and "off-season sales prices," setting out opposite such sales prices in parallel columns substantially higher prices designated as "reg-