

Syllabus

IN THE MATTER OF

HOWARD S. WEAVER, TRADING AS WEAVER REAL
ESTATE APPRAISAL TRAINING SERVICE

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

Docket 4353. Complaint, Oct. 22, 1940—Decision, June 30, 1941

Where an individual engaged in interstate sale and distribution of correspondence home study courses in rural and city real estate appraisal training; in offering his said courses through his sales representatives, advertisements in newspapers and magazines of general circulation, printed matter and radio broadcasts—

- (a) Represented and implied that the demand for land appraisers greatly exceeded the supply, and that land appraising was an uncrowded field lacking qualified men, through such statements as "Never before was the demand so great and the shortage so acute," and "At present the appraisal field is using thousands of unskilled, untrained men who should be replaced—and are being replaced * * * with competent, qualified trained men as rapidly as they are available"; and
- (b) Represented and implied that various Government loan agencies, as well as private industry, were seeking men trained by him, that the Civil Service Commission was holding examinations for land appraisers from time to time with salaries up to \$3,800 obtainable, that men trained by him were earning \$175 to \$300 monthly, and that choice money-making positions were available to them;

The facts being that, while in some instances in certain locations, services of competent appraisers were not available, there were more appraisers with field experience than could be gainfully employed; occupation in question does not, of itself, insure choice money-making opportunities; it was not true that loan agencies or private industry were seeking men trained by him, and that institutions acquainted with his school commended it most highly and were eager to get his graduates (notwithstanding his training was highly thought of by some who employed such graduates); and while Civil Service Commission had held examinations in recent years for real-estate appraisers, considerable experience was required, with exception of examination for Junior Appraiser for Land Banks, for which, however, graduation from said individual's school alone would not qualify the graduate; choice money-making positions were not available to his graduates, he did not have jobs to offer and was not in a position to guarantee earnings in any amount; and

- (c) Represented that only a limited number of students were to be selected for training, and that each student was to receive his individual assistance and guidance; and
- (d) Represented and implied that the tuition fee was less than half the regular tuition charge, through statement that, in view of his confidence in students securing "one of the many positions available on completing the course," he asked payment of less than half of the low fee in two installments, with

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balance to be paid when employment was secured as field-man, appraiser or supervisor;

The facts being number of students permitted to enroll was not limited, said individual did not give his personal attention and care to every student, work of correction of papers being entrusted to two assistants, who did not refer to him answers deemed correct, each student, however, during the course of training receiving at least two personal letters from him; and course was not sold for less than half the regular tuition fee but regular full tuition fee was charged;

With effect of leading purchasers and prospective purchasers into the belief that aforesaid representations were true, and of inducing them to purchase and pursue his courses of study 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.

Before *Mr. Robert S. Hall*, trial examiner.

Mr. Wilbur N. Baughman and *Mr. L. E. Creel, Jr.* for the Commission.

Mr. A. L. Vonck, of Kansas City, Mo., 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 Howard S. Weaver, an individual, trading under the name Weaver Real Estate Appraisal Training Service, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that 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, Howard S. Weaver, is an individual, trading under the name Weaver Real Estate Appraisal Training Service, with his office, and principal place of business at 2322 East Forty-ninth Street, Kansas City, State of Missouri.

PAR. 2. Respondent is now and for several years last past has been engaged in the sale and distribution of home-study courses in rural and city real-estate appraisal training. Said courses of study and instruction are pursued by correspondence through the medium of the United States mail. He causes said courses, together with books and material used in connection therewith, when sold, to be transported from his aforesaid place of business in the State of Missouri to the purchasers thereof located in various other States of the United States and in the District of Columbia. Said respondent maintains, and at all times mentioned herein has main-

tained, a course of trade in said courses in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. Respondent, in soliciting the sale of, and in selling, his said courses of study and instruction, and in the distribution thereof in said commerce, has made numerous false and misleading statements and representations with reference to said courses of study by one or more of the following methods, to wit: through his sales representatives engaged in soliciting the sale of such courses; through advertising matter published in newspapers and magazines circulated among the general public; through printed matter distributed among prospective students, enrolled students and others located in the several States of the United States and in the District of Columbia; and through radio broadcasts to members of the public generally. Among and typical of such false and misleading statements and representations made by or through one or more of the said methods are the following:

Here's good news for ambitious men from 25 to 55. Right now when most industrial and professional fields are overcrowded there is an actual lack of trained men to act as farm land appraisers, field men and town and city residence and business property appraisers * * * To meet this great shortage of trained men the Weaver Real Estate Appraisal Training Service was founded.

Never before was the demand so great and the shortage so acute.

At present the appraisal field is using thousands of unskilled, untrained men who should be replaced—and are being replaced—with competent, qualified, trained men as rapidly as they are available.

The real estate appraisal field offers to trained men choice money-making opportunities.

The New Federal Housing Bill passed by Congress will cause the F. H. A. to be greatly expanded and thousands of new appraisers will be needed by this agency and other financial institutions cooperating with the F. H. A.

The United States Government Loan Agencies, the Major insurance companies, banks, trust companies all need hundreds of (appraisers) * * * In a circular recently issued by the Government for Civil Service applicants, form number 2279, positions as land appraisers were listed at \$5,800 per year, associate land appraisers \$3,200 and assistant land appraisers \$2,600. * * * The natural question is, how does one fit himself for such a secure, well-paid position? The answer to that is easy—you can get such a training right in your own home through the Weaver Real Estate Appraisal Training Service.

Institutions who know the Weaver school commend it most highly and are eager to get Weaver trained men.

WANTED—Men to train for farm land appraisers * * * earn \$175 to \$300 monthly * * * write Weaver Real Estate Appraisal Training Service.

To make certain that you do fully grasp all points you will find a set of questions with each lesson that you answer and return to us, Mr. Weaver personally scanning these and correcting you if you are wrong on any points. This personal service has a rather sharp limit to it. That is, Mr. Weaver can

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give his personal attention and care to only so many students. When that point is reached no fresh enrollments can be accepted.

Here then is your big opportunity. The course can be taken in 6 to 12 weeks right in your own home, and so sure is Mr. Weaver that you will fit one of the many positions available on completing the course that you are asked to pay less than half of the low fee in two installments. The balance is to be paid only when you secure employment as field man, appraiser, or supervisor.

By the means and in the manner aforesaid, the respondent represents and implies that the demand for land appraisers greatly exceeds the supply. The prospective student, and the public generally, is led to believe that land appraising is an uncrowded field, lacking qualified men; with the various loan agencies of the Federal Government, as well as private industry, being on the lookout for Weaver trained men. Respondent further represents and implies that the Civil Service Commission is holding examinations for land appraisers, from time to time, and that salaries up to \$5,800 are obtainable. Weaver trained men are represented as earning \$175 to \$300 monthly, and that choice money-making opportunities are available. The prospective student is induced to enroll on the representation that only a limited number are selected for training; that each student receives the individual assistance and guidance of Mr. Weaver, the head of the school; and that the tuition fee is less than half the regular tuition charged.

PAR. 4. The foregoing statements and representations are false, misleading, and deceptive. In truth and in fact there is not a lack of appraisers, nor does the demand exceed the supply. The appraisal field is not using thousands of unskilled, untrained men, who are being replaced by competent, trained men as rapidly as they are available. As a matter of fact, there are already more appraisers with field experience than can be gainfully employed and such an occupation does not of itself assure choice money-making opportunities.

The various loan agencies of the United States Government do not need additional or newly trained appraisers, and lucrative earnings cannot be assured; nor is there a demand in private industry for appraisers which will assure lucrative earnings.

Furthermore, the Civil Service Commission has not held an appraisal examination in recent years, as represented by respondent; and graduating from respondent's school, in and of itself, would not qualify the graduate to take such examination, if and when held.

It is not a fact that institutions which know the Weaver School commend it most highly and are eager to get Weaver trained graduates; but the facts are that the respondent daily contacts large busi-

ness houses in an effort to get them to employ the graduates of his school, with only limited success. The respondent does not have jobs to offer, and is not in position to guarantee earnings of \$175 to \$300 monthly, or in any amount. The number of students permitted to enroll is not limited as represented; nor does the respondent personally scan and correct all answers or give his personal attention and care to every student. The course is not sold for less than half as represented, but the regular full tuition fee is charged.

PAR. 5. The foregoing acts and practices used by respondent in connection with the offering for sale, sale and distribution of his said courses of study and instruction, as hereinbefore set out, 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 as herein alleged, are true, and to induce them to purchase and pursue such courses of study and instruction on account thereof.

PAR. 6. 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 October 22, 1940, issued and subsequently served its complaint in this proceeding upon the respondent, Howard S. Weaver, an individual trading under the name Weaver Real Estate Appraisal Training Service, charging him with the use of unfair and deceptive acts and practices in commerce in violation of the said act, and on November 13, 1940, the respondent filed his answer in this proceeding. Thereafter, at a regularly scheduled hearing, counsel for the respondent and counsel for the Commission entered into a stipulation whereby it was stipulated and agreed that a statement of facts read into the record at said hearing might be taken as the facts in this proceeding and in lieu of testimony in support of, and in opposition to, the charges stated in the complaint. Respondent also waived the filing of a report on the evidence by the trial examiner, brief, and his right to request oral argument. Thereafter this proceeding regularly came on for final hearing before the Commission on said complaint, answer and stipulation and the Commission having duly considered the same 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.

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FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Howard S. Weaver, is an individual trading under the name Weaver Real Estate Appraisal Training Service, with his office and principal place of business at 2322 East Forty-ninth Street, Kansas City, Mo.

PAR. 2. The respondent is now and for several years last past has been engaged in the sale and distribution of home study courses in rural and city real estate appraisal training. Said courses of study and instruction are pursued by correspondence through the medium of the United States mail. He causes said courses, together with the books and material used in connection therewith when sold, to be transported from his aforesaid place of business in the State of Missouri to the purchasers thereof located in various other States of the United States and in the District of Columbia. Said respondent maintains and at all times mentioned herein has maintained a course of trade in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. Respondent in soliciting the sale of, and in selling, his said courses of study and instruction, and in the distribution thereof in said commerce, has made numerous statements and representations with reference to said courses of study by one or more of the following methods, to wit: through his sales representatives engaged in soliciting the sale of such courses; through advertising matter published in newspapers and magazines circulated among the general public; through printed matter distributed among prospective students, enrolled students and others located in the several States of the United States and in the District of Columbia; and through radio broadcasts to members of the public generally. Among and typical of such statements and representations made by or through one or more of the said methods are the following:

Here is good news for ambitious men from 25 to 55. Right now when most industrial and professional fields are overcrowded there is an actual lack of trained men to act as farm land appraisers, field men and town and city residences and business property appraisers * * * to meet this great shortage of trained men the Weaver Real Estate Appraisal Training Service was founded.

Never before was the demand so great and the shortage so acute.

At present the appraisal field is using thousands of unskilled, untrained men who should be replaced—and are being replaced * * * with competent, qualified trained men as rapidly as they are available.

The real estate appraisal field offers to trained men choice money-making opportunities.

The new Federal Housing Bill passed by Congress will cause the Federal Housing Authority to be greatly expanded and thousands of new appraisers

will be needed by this agency and other financial institutions cooperating with the F. H. A.

The United States Government loan agencies, the Major insurance companies, banks, trust companies, all need hundreds of (appraisers) * * * In a circular recently issued by the Government for Civil Service applicants (Form No. 44279), positions as Land Appraisers were listed at \$3,800 per year; Associate Land Appraisers, \$3,200 and Assistant Land Appraisers, \$2,600 * * * the natural question is how does one fit himself for such a secure, well paid position? The answer to that is easy—you can get such a training right in your own home through the Weaver Real Estate Appraisal Training Service.

Institutions who know the Weaver School commend it most highly and are eager to get Weaver trained men.

WANTED—men to train for farm land appraisers * * * earn \$175 to \$300 monthly * * * Write Weaver Real Estate Appraisal Training Service.

To make certain that you do fully grasp all points you will find a set of questions with each lesson and return to us. Mr. Weaver personally scanning these and correcting you if you are wrong on any point. This personal service has a rather sharp limit to it. That is, Mr. Weaver can give his personal attention and care to only so many students. When that point is reached no fresh enrollments can be accepted.

Here then is your big opportunity. The course can be taken in 6 to 12 weeks right in your own home and so sure is Mr. Weaver that you will get one of the many positions available on completing the course that you are asked to pay less than half of the low fee in two installments. The balance is to be paid only when you secure employment as field-man, appraiser or supervisor.

PAR. 4. By the means and in the manner aforesaid, the respondent represented and implied that the demand for land appraisers greatly exceeded the supply; that land appraising was an uncrowded field, lacking qualified men; that various loan agencies of the Government, as well as private industry, were seeking men trained by respondent; that the Civil Service Commission was holding examinations for land appraisers from time to time, and that salaries up to \$3,800 were obtainable; that men trained by respondent were earning \$175 to \$300 monthly, and that choice money-making positions were available to them.

The respondent further represented that only a limited number of students were to be selected for training; that each student was to receive the individual assistance and guidance of respondent, the head of the school, and that the tuition fee was less than half the regular tuition charge.

In truth and in fact there was not and is not a lack of appraisers, nor has the demand exceeded the supply. However, there have been instances in certain locations in which prospective employers sought to secure the services of competent appraisers and in certain instances such appraisers were not available. The appraisal field is not using

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thousands of unskilled men who are being replaced by competent trained men wherever they are available. There are already more appraisers with field experience than can be gainfully employed and such an occupation does not of itself insure choice money-making opportunities.

PAR. 5. The various loan agencies of the United States Government do not need additional or newly trained appraisers and lucrative employment can not be assured; nor is there demand in private industry for appraisers which will assure lucrative earnings. The Civil Service Commission has in recent years held examinations for real-estate appraisers, as represented by the respondent but the applicants for such examinations were required to have had considerable experience in actual appraisal work except that examinations have been called by the Civil Service Commission for Junior Appraiser for Land Banks who were not required to have had actual experience in real-estate appraisal work. Graduation from respondent's school in and of itself would not qualify the graduate to take such examination.

PAR. 6. It is not a fact that institutions which know the respondent's school commend it most highly and are eager to get respondent's graduates. The respondent daily contacts large business houses in an effort to get them to employ the graduates of his school with only limited success. However, there are among the institutions so contacted several who think highly of the training of the respondent's school and have employed graduates from the school. The respondent does not have jobs to offer and is not in position to guarantee earnings of from \$175 to \$300 a month or in any amount. The number of students permitted to enroll is not limited as was represented; nor does the respondent personally scan and correct all answers or give his personal attention and care to every student. The respondent employs two assistants among whose duties is the work of correcting the lessons of the students. If, in the opinion of these employees the answers given are correct, they are not referred to respondent for attention. However, when, in the opinion of these employees the answers to the questions are incorrect they are then referred to respondent for correction. During the course of training each student receives at least two personal letters from Mr. Weaver. The course was not sold for less than half the regular tuition fee as was represented, but the regular full tuition fee was charged.

PAR. 7. The foregoing acts and practices used by respondent in connection with the offering for sale, sale and distribution of his said course of study and instruction, as hereinbefore set out, have had,

and now have, the tendency and capacity to, and do, lead purchasers and prospective purchasers thereof into the 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. 8. The aforesaid advertising material was used by respondent during the year 1939 but its use has since been discontinued.

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, the answer of respondent and a stipulation as to the facts entered into on the record herein, and the Commission having duly considered the record and having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Howard S. Weaver, an individual trading as Weaver Real Estate Appraisal Training Service, or under any other trade name, and his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of home study courses in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing:

1. That there is a lack of real-estate appraisers available for employment or that the demand for such appraisers exceeds the supply.

2. That the real-estate appraisal field is using thousands of unskilled, untrained men who are being replaced by competent trained men as rapidly as they are available.

3. That the various loan agencies of the United States Government and private lending agencies need additional or newly trained appraisers.

4. That lucrative earnings can be assured trained real-estate appraisers.

5. That institutions generally, which know the respondent's school, commend it most highly or are eager to get respondent's graduates.

6. That he can assure or guarantee earnings in any amount to graduates of his school.

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7. That the number of students permitted to enroll in his school is limited.

8. That he personally corrects all written lessons of his students.

9. That his course of study is sold for less than half the regular tuition fee charged.

10. That graduation from his school in and of itself, qualifies one for a Government position as a real-estate appraiser.

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

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IN THE MATTER OF

PLOMB TOOL COMPANY

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

Docket 4384. Complaint, Nov. 23, 1940—Decision, June 30, 1941

Where a corporation engaged in competitive interstate sale and distribution of tools and other articles of merchandise to wholesalers, jobbers, and retailers, and in advertising same and its sales plan or method for resale thereof to purchasing public by means of printed cards, circulars, samples, and personal solicitation—

Furnished, together with its said products, various club plans which involved resale thereof to purchasing public by use of game of chance, gift enterprise, or lottery, and under which, as illustrative, through plan of fixed weekly payments for specified number of weeks, and weekly drawings, certain members received \$25 worth of its tools for \$1, \$2, \$3, etc., in accordance with chance drawing of particular member's name at first, second, and succeeding weekly drawings, all others paying full amount, and which included, at the end of the period, drawing for a grand prize, to which all members of the club were eligible; and thereby

Supplied to and placed in the hands of retailers means of conducting lotteries in the sale of its merchandise through their exposure and sale of same to purchasing public in accordance with such plans, under which the amount the ultimate purchaser paid for products, and fact as to which club member received final award, was determined wholly by lot or chance, and which involved game of chance to procure articles of merchandise at much less than normal retail price; contrary to an established public policy of the United States Government and in violation of criminal laws, and in competition with many who, unwilling to adopt and use such or any method contrary to public policy, refrain therefrom;

With result that many persons were attracted by its said sales plan and element of chance involved therein, and were thereby induced to buy and sell its merchandise in preference to that offered and sold by its competitors who did not use the same or an equivalent method, and with effect of unfairly diverting trade in commerce to it from its said competitors, to the injury of competition in commerce:

Held, That said acts and practices, as above set forth, were all to the prejudice and injury of the public and competitors, and constituted unfair methods of competition in commerce and unfair and deceptive acts and practices therein.

Mr. L. P. Allen, Jr. and *Mr. J. V. Mishou* for the Commission.

Mr. William Hawes Smith, of Los Angeles, Calif., 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