

IN THE MATTER OF
REFRIGERATION & AIR CONDITIONING INSTITUTE, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 3811. Complaint, Oct. 31, 1939¹—Decision, July 11, 1941

Where a corporation engaged in competitive interstate sale and distribution of a course of study in refrigeration and air conditioning, which consisted primarily of a series of lessons to be pursued at home, followed by a period of shop training and instruction at its school in Chicago;

In advertising, through newspapers of wide circulation and extensively by means of radio programs, for the purpose, primarily, of arousing the interest of prospective purchasers and of causing them to make inquiries of it for additional information, and by oral representations of its field representatives or agents, through whom it conducted actual solicitation of prospective purchasers—

- (a) Represented, directly or by implication, that there was a great and unusual demand for new employees, and that as many as 5,000 or more new employees per year were needed in the refrigeration and air conditioning industry, that unusual and extraordinary opportunities for employment were open to persons completing its course of study, and that employment in said industry was assured to such persons;

The facts being that, while there are opportunities for employment in said industry, there is no unusual or extraordinary demand for employees therein, instruction and training in subject being offered also by many other correspondence schools, as well as universities and colleges, and the industry and the trade unions also supplying additional workers; even assuming that the industry could absorb 5,000 new workers a year, it was doubtful, in view of the large number of persons seeking to enter it, that the major portion of its 2,000 annual graduates would be able to obtain employment, and in no event could such graduates be assured thereof; and

- (b) Represented that its said school was under the direction and supervision of the industry and was conducted in cooperation therewith;

Facts being that, while it maintained as a part of its organization a group of individuals holding responsible positions in the industry, and known as its "Board of Governors," which, at bi-monthly meetings, discussed various school matters and offered suggestions and criticisms, the work of such "Board," generally speaking, was advisory only: it did not undertake to direct or supervise in detail operations of the school, and the companies with which its individual members were connected fell far short of constituting the entire industry; though occupying prominent places therein; and while certain individuals in the industry had evinced interest in the school and cooperated with it to a limited extent, there had been no cooperative action by it as such, and no member thereof had contributed in any way to its financial support;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public, and to cause it, as a result of the erroneous belief thus

¹ Amended.

engendered, to purchase its course of study, whereby trade was diverted unfairly to it from its competitors:

Held, That such acts and practices, under the circumstances 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.

Before *Mr. Miles J. Furnas*, *Mr. Arthur F. Thomas*, and *Mr. John W. Addison*, trial examiners.

Mr. William L. Pencke for the Commission.

Mr. Richard S. Oldberg, of Chicago, Ill., for respondent.

AMENDED 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 Refrigeration & Air Conditioning Institute, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its amended complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Refrigeration & Air Conditioning Institute, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business at 2150 Lawrence Avenue in the city of Chicago, State of Illinois.

PAR. 2. Respondent is now, and has been for more than 4 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 and subjects connected therewith or incident thereto, which said courses of study and instruction are pursued by correspondence through the medium of the United States mail. Respondent, in the course and conduct of said business during the time aforesaid caused and does now cause its said courses of study and instruction together with books and material connected therewith to be transported from its said place of business in Illinois to, into and through States of the United States other than Illinois to the purchasers thereof in such other States.

PAR. 3. During the time above mentioned, other individuals, firms, and corporations in various States of the United States have been and are 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 courses of study and instruction in air conditioning and

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refrigeration and in subjects pertaining to various trades, callings, and pursuits and in preparation for work and positions of various kinds, all of which said courses of study and instruction are given and pursued either in whole or in part by means of correspondence through the medium of the United States mail. Respondent has been, during the time aforesaid, in substantial competition in commerce between and among the various States of the United States in the sale of its said courses of study and instruction with such other individuals, firms, and corporations.

PAR. 4. 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 caused by respondent to be published in newspapers and magazines circulated among the general public, including prospective students, in various States of the United States; in printed matter circulated by respondent by mail or otherwise to prospective students, enrolled students and others in various States of the United States; in radio broadcasts to members of the public generally. Among such misleading representations made by or through one or more of the said methods are representations that import or imply:

1. That the person solicited has been specially selected to take the course offered and that all those solicited and enrolled are specially selected.

2. That jobs are available for students who complete respondent's instruction and that such students are given preference in available jobs by members of the industries involved by actual employment.

3. That laboratory work given at respondent school may be taken by the student upon completion of the home study regardless of whether payments have been made in full.

4. That immediate enrollment is necessary in order to secure the training offered or that opportunity to enroll will not be available later because enrollment will not then be accepted.

5. That starting pay that may be expected by students who finish respondent's course is higher than it is in fact.

6. That little previous education is necessary in order to successfully pursue and finish the course offered or that apparent educational deficiencies will not be a bar thereto.

7. That the manufacturers whose officials have endorsed or commended respondent's course have agreed to give employment to respondent's graduates or a large part thereof.

8. That the salesman or other representative of respondent will call back and assist the student solicited in his studies.

9. That respondent's so-called Board of Governors, composed of officers or employees of certain manufacturers, is in full charge of respondent school; that it is in direct and actual charge of the work of instruction; that it is appointed by and acts on behalf of the industry or the so-called endorsers as a whole; or that its status is other than it is in fact.

10. That the student solicited may elect and arrange to spend extra time at the laboratory of respondent school in addition to that regularly provided.

11. That the manufacturers in the industry whose officers or employees have given letters commending respondent's course actually sponsor the school or contribute financially to the upkeep of the same or to the cost of instruction.

12. That the size of the institution conducted by respondent is greater than it is in fact; that respondent school occupies the entire space in the buildings depicted in its literature and advertisements; and that a certain building so depicted in some of its literature is actually built and in use.

13. That the school operated by respondent was founded by or is operated by the industries involved, or by the concerns whose officials have endorsed the same.

14. That the industries involved absorb and will absorb all of the graduates of respondent school or that approximately 5,000 graduates of the school can and will be so absorbed annually.

15. That all the openings for employment arising and existing annually in the industries involved of the kind for which respondent's training qualifies its students will be filled by graduates of respondent school or that respondent has been authorized by said industries to prepare and furnish men for all of such openings.

16. That all of respondent's graduates have found employment in the industries involved.

17. That respondent school does and will obtain jobs for its graduates.

18. That a refund will be made of money paid by students who sign respondent's enrollment blanks if the students are unable to proceed with the training or cannot assimilate the same or that payments will be suspended during unemployment or other events preventing the continuance of payments, or, if the student desires to discontinue the course after starting, further payments will be canceled.

19. That the contract caused by respondent to be presented to and signed by prospective students is a mere application for the training offered and not a contract and is merely preliminary and of no further binding effect on those signing the same.

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20. That there is a great demand for men in the industries involved or that the demand is much greater than it is in fact.

21. That respondent school is the only one of the kind having endorsements from manufacturers or their representatives.

22. That by enrolling in respondent school, the student is accepting the chance of a lifetime and that by graduating therefrom his future is assured.

23. That the home study course conducted by respondent is the only one of the kind having shop training in connection therewith.

24. That the training given by respondent qualifies students thereof as engineers in the fields involved and that by taking respondent's training jobs as engineers can be procured.

25. That the employment opportunities stressed by respondent in its advertising matter and by its salesmen are in the manufacturing plants in the industries involved.

26. That the number of students accepted by respondent is limited to the number of openings for employment in the industries involved and available to those who graduate.

27. That the value or cost of laboratory equipment in respondent school is greater than it is in fact.

28. That transportation cost of the student to and from Chicago for laboratory training is paid by respondent.

29. That a so-called limited quota of enrollments is employed by respondent and applied to restrict the number thereof so that those who finally graduate will not exceed the demand for such graduates in the industries involved.

30. That respondent school is the official training agency of the refrigeration and air conditioning industries.

31. That all of certain listed manufacturers had officially endorsed respondent's training.

32. That respondent school solicits and enrolls only a comparatively small number of students.

PAR. 5. Among the statements of respondent in its radio broadcasts, advertising matter or literature, circulated or published at one time or another as aforesaid, which import or imply one or more of the foregoing representations or which encourage such representations by its salesmen or furnish a background therefor, are the following:

* * * In fact, in the last three years, Air Conditioning installations have increased more than FOURTEEN HUNDRED PERCENT! BUT, with this wonderful growth, a serious problem has arisen, for now the Industry finds that there are not enough trained men available to carry on its work. Recent surveys show that from five to seven thousand additional trained men will be needed EVERY YEAR for at least the next 10 years. * * * To meet this demand a nationwide training program, officially endorsed and recommended by more than a

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hundred leading manufacturers, is now being carried on, to create the new type craftsman so badly needed * * * MEN ARE BEING SELECTED FOR THIS TRAINING NOW! * * *

* * * with one or two widely scattered exceptions every single student who has completed our training, and attended the laboratory in Chicago and received his diploma, has made an immediate and highly satisfactory connection in this industry * * *

This program, endorsed by over 50 leading manufacturers and directly supervised by Engineers appointed by these manufacturers consists of * * * etc.

* * * while many men are needed, the Board will accept only those whom they think will be successful in this field, * * *

* * * Qualified men are being selected for training now * * *

* * * the most modern and complete laboratory of its kind in the world; \$100,000 of equipment in actual operation; * * *

We carefully select the men we train.

A few men in this locality will be accepted for training under arrangements with 20 of largest manufacturers by the Refrigeration and Air Conditioning Institute * * *.

Wanted immediately—Several men to train under direct supervision of factory engineers, appointed by arrangement with 50 leading manufacturers. Those qualifying will be prepared by Refrigeration and Air Conditioning Institute, * * *.

The Refrigeration and Air Conditioning Institute was founded at the request of several well-known manufacturers of refrigeration and air-conditioning equipment, and is conducted for the purpose of providing the industry with men * * *.

The Only School Offering "Officially Endorsed" and Industry-Supervised Training.

Fifty leading manufacturers in the industry cooperated with us in making possible a complete training program that prepares for ACTUAL JOBS and includes a national placement service.

Wanted Immediately—Right now—there exists an urgent need for men to sell, install, and service new types of equipment in a new, fast growing industry but only especially trained men are needed—men who have had complete theoretical training and also practical experience on operating equipment.

Men are being selected for training now * * *. If you are interested in where this opportunity exists and how you can prepare for good paying positions in that field—write to Industrial Training Corp. * * *.

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Help Wanted—Men

Men wanted immediately—Men mechanically inclined to train for good paying positions in a new and fast-growing industry. Training includes practical experience on operating equipment. For complete information write to Refrigeration and Air Conditioning Institute * * *.

Supervised by an Industry Appointed Board of Governors—The manufacturers endorsing Refrigeration and Air Conditioning Institute Training assist in the supervision of the training through an industry-appointed Board of Governors * * *.

* * * The Refrigeration and Air Conditioning Institute also furnishes your transportation * * *.

* * * Well-paid positions in estimating, installation, service engineering and maintenance on many new types of mechanical equipment are open to the properly trained men * * *.

The purpose of this program is to provide the air-conditioning industry with men who have been specially trained to handle installation, maintenance, and service engineering * * *.

* * * we are accepting for training only men of good character, fair education, * * *.

as well as others of like tenor or effect or which carry implications of the kind embraced in one or more of the misleading representations enumerated in the preceding paragraph of this amended complaint.

PAR. 6. In truth and in fact—no special selection is or has been made of prospective students who are interviewed by respondent's salesmen and solicited to enroll for training by them, but generally speaking, all who make inquiry in response to respondent's advertising efforts, as aforesaid, are interviewed and solicited to enroll; generally speaking, jobs in the industries involved are not available for all students who complete respondent's instruction or for the great majority thereof, nor do members of such industries, generally speaking, give preference to respondent's graduates by furnishing them employment; respondent requires payment in full before students are eligible to take laboratory training and does not permit such training to be taken until payment has been made in full; in order to be accepted by respondent, it is not necessary or required that prospective students enroll immediately when first called upon by respondent's representatives; the subjects involved in respondent's training not only require a considerable degree of intelligence and the ability to concentrate and study systematically and persistently but also require some knowledge of chemistry, physics, and high

school mathematics, which have not ordinarily been acquired by students having little previous education or only a common school education; the so-called endorsing manufacturers have not and do not furnish employment to all of respondent's graduates or to a large part thereof but only in a comparatively few instances; it is not a part of respondent's system of training for the salesmen or other representatives of respondent to call back and assist students in their work; respondent's so-called board of governors is not in direct charge of respondent's school or of its instruction and does not govern the school, but acts in a mere advisory capacity; neither does said board represent the industry as a whole or the so-called endorsing manufacturers as a group; but only the individual concerns with which the members thereof are connected; respondent does not provide for or permit the taking of extra laboratory work but only provides that given to all students in regular course; respondent's so-called endorsing manufacturers do not sponsor respondent's school or contribute to the upkeep of the same or to the cost of instruction; the buildings occupied by respondent's school and depicted in its advertising matter as such are not entirely occupied by respondent but are also occupied by other associated schools; one picture of a building, formerly used by respondent in its advertising matter, was from a drawing of a proposed building that was never built; respondent's school was not founded by nor is it operated by the industries involved or by the concerns whose officials have endorsed the same; the industries involved have not and do not absorb all of respondent's graduates or approximately 5,000 of them annually; all openings for employment in the industries involved are not filled by respondent's graduates nor is respondent authorized by said industries to prepare and furnish men for such openings as may exist; all of respondent's graduates have not found employment in the industries involved; respondent does not in practice obtain jobs for its students but merely attempts to assist therein; respondent does not make a practice of refunding money paid by students who are unable to proceed with the training or who find that they cannot assimilate the same, nor are payments generally suspended during students' unemployment or other events preventing the continuance of payments, nor are further payments canceled as a general practice when students desire to discontinue the course, but, in practice, respondent generally attempts to collect the amounts called for on all contracts or to make some compromise settlement thereon; the so-called application signed by students is a contract for the payment of the price of the course in full, including transportation to and from Chicago, and becomes final upon acceptance by respondent

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without further action or election by the applicants involved; there is not now, nor has there been for the last year or 2 at least, any great demand for men in the refrigeration and air conditioning industries or for new men not already connected therewith or that is not capable of being principally supplied through regular channels in the industries involved; respondent school is not the only school of the kind that has endorsements from manufacturers; it is incorrect and greatly exaggerated to represent that by enrolling in respondent school one is accepting the chance of a lifetime and that by graduating therefrom one's future is assured; respondent school is not the only one of the kind having shop training in connection therewith; respondent's training is not such as to qualify graduates thereof as "engineers" under the usual acceptance of that term nor engineering training in the sense that students thereof receive the same kind and grade of training as given in colleges and universities granting degrees in engineering but is in the nature of a trade school offering training tending to qualify students for jobs as mechanics or service men; comparatively few of respondent's graduates have found employment in manufacturing plants of the industries involved; the quota of students fixed by respondent as the limit of enrollments is not such that those who graduate are in fact absorbed by employment in the industries involved; the represented value of respondent's laboratory equipment is based on alleged retail price valuation of the equipment involved, rather than on actual present value or cost to respondent since the equipment was purchased at prices greatly below the alleged retail prices on which such represented valuation is fixed; transportation cost to and from Chicago for laboratory work is furnished and paid in advance by the student as a part of the charge made by respondent for the training; the so-called limited quota of enrollments is not employed and applied by respondent so as to result in supplying only enough graduates who find or receive employment in the industries concerned but leaves out of account all other sources of supply of new employees in such industries and is grossly large and unreasonable if a really substantial percentage of respondent's enrollees should graduate; respondent school is not the official training agency of the refrigeration and air conditioning industries nor of the so-called endorsing manufacturers as a group; not all of the manufacturing concerns listed by respondent in its advertising matter as having endorsed its training had officially endorsed the same but some so listed were concerns that had not given official endorsement thereof and any endorsements involved were merely the personal acts of individuals connected therewith; respondent's enrollments are not small when considered on a total and yearly

basis but are based on an annual quota of approximately 20,000 enrollments and made to appear small, restrictive, and selective by dividing such total quota into areas extending over the entire United States and then breaking down these divisions into monthly quotas.

PAR. 7. The foregoing acts and practices used by respondent in connection with the offering for sale and sale of its 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. Thereby trade is unfairly diverted to respondent from competitors engaged in the sale in commerce between and among the various States of the United States and in the District of Columbia of correspondence courses in air conditioning and refrigeration as well as from those engaged in such sale of correspondence courses in subjects pertaining to various trades, callings and pursuits and in preparation for work and positions of various kinds. There are among the competitors of respondent those who in the sale of their respective courses of study and instruction do not similarly or in any manner misrepresent the same or matters pertaining thereto. As a result of respondent's said practices, as herein set forth, substantial injury has been and is now being done by respondent to competition in commerce between and among the various States of the United States.

PAR. 8. The aforesaid acts and practices of the 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 June 7, 1939, issued and thereafter served its complaint in this proceeding upon the respondent, Refrigeration & Air Conditioning Institute, Inc., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. Thereafter, on October 31, 1939, the Commission issued and subsequently served its amended complaint in this proceeding upon said respondent, 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 complaints and the filing of

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respondent's answers thereto, testimony and other evidence in support of the allegations of the complaints were introduced by William L. Pencke, attorney for the Commission, and in opposition to the allegations of the complaints by Richard S. Oldberg, attorney for the respondent, before trial examiners of the Commission theretofore duly designated by it, and the 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 original and amended complaints, the answers thereto, testimony and other evidence, report of the trial examiners upon the evidence and the exceptions thereto, briefs in support of the complaints and in opposition thereto, and oral argument before the Commission; 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, Refrigeration & Air Conditioning Institute, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 2150 Lawrence Avenue, in the city of Chicago, Ill. Respondent is now, and since 1935 has been, engaged in the sale and distribution of correspondence courses of study and instruction in refrigeration and air conditioning.

Respondent causes, and since 1935 has caused, its courses of study and instruction, when sold, to be transmitted from its place of business in the State of Illinois through the United States mails and by other means to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and since 1935 has maintained, a course of trade in its courses of study and instruction in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. Respondent is now, and since 1935 has been, in substantial competition with other corporations and with firms and individuals engaged in the sale and distribution, in commerce among and between the various States of the United States and in the District of Columbia, of correspondence courses of study and instruction in the subjects of refrigeration and air conditioning.

PAR. 3. Respondent's course of study consists primarily of a series of lessons to be pursued by the student in his home. Upon the completion of the series of lessons a period of shop training and instruction is given the student at respondent's school in Chicago. Originally,

this shop training was limited to 2 weeks but subsequently it was increased to 4 weeks. Twelve to 18 months are usually required for the completion of the entire course of study.

In the course and conduct of its business and for the purpose of promoting the sale of its course of study, respondent inserts advertisements in newspapers having a wide circulation and also advertises extensively by means of radio programs. These newspaper and radio advertisements are primarily for the purpose of arousing the interest of prospective purchasers in respondent's course of study, and of causing such prospective purchasers to make inquiry of respondent for additional information with respect to the course.

The actual solicitation of prospective purchasers is conducted by respondent almost entirely through agents or solicitors located in various sections of the United States, these agents being designated by respondent as field representatives. For the purpose of contacting prospects and selling them the course of study, respondent has divided the United States into numerous sales districts, with field representatives located in each of these districts. Respondent customarily has in its employ approximately 150 field representatives, all of whom are compensated on a commission basis.

Among and typical of the statements and representations made by the respondent in its newspaper advertisements and radio programs are the following:

[Newspaper advertisements]

Also—more than 70 of the leading manufacturers in this industry are “officially” endorsing and recommending R-A-C-I training because they know that under such supervision, any man taking it is going to be trained exactly as they want him trained.

Again!—Isn't it reasonable to suppose that after “officially” endorsing this Training that these same 70 manufacturers—and their thousands of distributors and dealers, everywhere—will give our graduates the preference when they have jobs to fill, everything else being equal, of course.

And trained men are needed—don't overlook that—hundreds of them, in fact. But first they must be trained—and trained right. That's our job. And that's the reason for this ad—we are looking for men who are really interested.

Because of our pledge to these manufacturers to be extra careful we are accepting for training only men of good character, fair education, and with some mechanical ability.

Wanted immediately—several men to train under direct supervision of factory engineers, appointed under arrangement with leading manufacturers. Those qualifying will be prepared by Refrigeration and Air Conditioning Institute

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Fifty leading manufacturers in the industry cooperated with us in making possible a complete training program that prepares for ACTUAL JOBS and includes a national placement service.

The type of training is offered that employers in this industry want their men to have. Its success is proven by the fact that all of the graduates in the Chicago District are already employed in permanent, good pay jobs. All tools and equipment furnished without charge.

* * * * *

To our knowledge the Training offered by the Refrigeration & Air Conditioning Institute, of Chicago, is THE ONLY ONE IN THE ENTIRE AIR CONDITIONING FIELD THAT IS ACTUALLY DIRECTED AND SUPERVISED BY ENGINEERS AND EXECUTIVES WORKING RIGHT IN THE INDUSTRY.

[Radio continuities]

* * * In fact, in the last three years, Air Conditioning installations have increased more than FOURTEEN HUNDRED PERCENT! But, with this wonderful growth, a serious problem has arisen, for now the Industry finds that there are not enough trained men available to carry on its work. Recent surveys show that from five to seven thousand ADDITIONAL trained men will be needed EVERY YEAR for the next TEN years * * * To meet this demand a nation-wide training program, officially endorsed and recommended by more than a hundred leading manufacturers, is now being carried on, to create the new type craftsman so badly needed * * * MEN ARE BEING SELECTED FOR THIS TRAINING, NOW! * * *

* * * * *

As I understand it, this training program is directed and supervised by engineers and executives working right in the industry. Is that true?

Yes, that's right! And these men were actually appointed by the presidents of some of the manufacturers who endorse this program for the very purpose of directing and supervising the training, to make sure the men taking it are trained. Preliminary instruction is followed by practical shop work in what are probably the largest and most modern shops of their kind in the world! AND MEN ARE BEING SELECTED FOR THIS TRAINING, NOW!

* * * * *

As you probably know, refrigeration and air conditioning is one of the fastest growing businesses in America * * * but do you know also that so rapid has been its growth that there are not enough trained men to carry on the work of estimating, planning, installing and service engineering? That's the situation right now. Consequently fifty of the leading manufacturers in the field are cooperating with the Refrigeration and Air Conditioning Institute in a training program that will prepare the men needed for this work.

* * * * *

PAR. 4. The Commission finds that through the use of these statements and representations and others of a similar nature, and through oral representations made by respondent's field representatives to prospective purchasers, respondent has represented, directly or by implication, that there is a great and unusual demand in the refrigeration and air conditioning industry for new employees; that as many as 5,000 or more new employees per year are needed in the industry; that unusual and extraordinary opportunities for employment in the indus-

try are open to persons completing respondent's course of study, and that employment in the industry is assured to such persons; that respondent's school is under the direction and supervision of the industry, and is conducted in cooperation with the industry.

PAR. 5. There is a sharp conflict in the testimony on the question as to the number of new employees which the refrigeration and air conditioning industry may reasonably be expected to absorb each year, and on the question as to the opportunities for employment which are open to graduates of respondent's school. Testifying at the instance of the Commission were a number of witnesses who were well qualified to express an opinion on the subject and some of whom held high positions in the industry. These witnesses were of the opinion that the industry could not absorb 5,000 new employees per year or any number approaching that figure.

A number of well qualified witnesses for the respondent were of the contrary view, their opinion being that the industry should be able to use 5,000 new employees annually for some years to come. Several of respondent's witnesses held important positions with concerns engaged in the manufacture of refrigeration and air conditioning equipment. While these latter witnesses were optimistic in their views on the possibilities for employment in the industry, their testimony failed to show that anything more than a negligible number of respondent's graduates had been employed in the manufacturing plants represented by the witnesses. In fact, it was only in exceptional and isolated instances that respondent's graduates had found employment with these companies. Nor was there any testimony indicating that any substantial number of respondent's graduates had obtained positions with the sales agencies and service concerns throughout the country which sell and service the products of these manufacturers.

In connection with its school, respondent maintains an employment service to assist its graduates in obtaining positions. From a survey made by respondent in 1938, it appears that only about 26 percent of respondent's graduates had been able to obtain employment in the industry, and a similar survey made in 1939 indicated that not more than 35 percent had been successful in that respect. A third survey presented a more favorable picture. Between October 1939 and June 1940, 1,090 persons graduated from respondent's school, and this survey indicated that during the same period, 1,099 graduates had found employment in the industry. This latter figure, however, included persons who had graduated during previous years as well as those who had graduated during this particular period. There is no indication in the record as to how many of the positions obtained by the 1,099 persons were of a permanent nature and how many were only temporary.

A factor which tends to limit the opportunities for employment open to respondent's graduates is that the trade or labor unions themselves maintain trade schools for apprentices, and by means of these schools the trade unions in many cases supply all of the new men needed for work of this character. A further factor is that in the field of home refrigeration there has been a decided tendency among manufacturers during recent years to enclose their machines in hermetically sealed containers, with the result that when in need of service or repair such machines cannot be attended to by local service men but must be returned to the manufacturer.

Approximately 2,000 students are graduated from respondent's school each year. Not only are there many other correspondence schools offering instruction and training similar to that offered by respondent, but many universities and colleges also offer courses of instruction and training in this field. The industry itself and the trade unions supply an additional number of workers. Even if it be assumed that the industry can absorb approximately 5,000 new workers per year, it is doubtful, in view of the large number of persons seeking to enter the industry, that the major portion of respondent's graduates would be able to obtain employment.

The Commission is therefore of the opinion from the evidence that while there are opportunities for employment open in the refrigeration and air conditioning industry, there is no unusual or extraordinary demand for employees in the industry. In no event can respondent's graduates be assured of employment.

PAR. 6. Respondent's claim that its school is directed and supervised by the refrigeration and air conditioning industry is based upon the fact that the school maintains as a part of its organization a group composed of individuals holding responsible positions in the industry. This group is known as the school's "Board of Governors" and usually consists of five members. At the meetings of the board, which are held every 2 months, various matters in connection with the school are discussed, and suggestions and criticisms are offered by the members of the board. Generally speaking, the work of the board is of an advisory nature only. The board does not undertake to direct or supervise in detail the operations of the school. The companies with which the individual members of the board are connected, while occupying prominent places in the industry, fall far short of constituting the entire industry.

The Commission finds that there is no substantial basis for respondent's representation that its school is conducted in cooperation with the industry. Certain individuals in the industry have evinced interest in the school, and have cooperated with it to a limited extent, but

there has been no cooperative action by the industry as such. No member of the industry has contributed in any way to the financial support of the school.

PAR. 7. The Commission therefore finds that the claims and representations of the respondent with respect to its school and with respect to the opportunities for employment open to the graduates of its school, as set forth in paragraphs 3 and 4 herein, are grossly exaggerated, misleading, and deceptive.

PAR. 8. The Commission further finds that the use by the respondents of these representations has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public, and to cause such portion of the public to purchase respondent's course of study as a result of the erroneous and mistaken belief so engendered. In consequence thereof, trade has been diverted unfairly to the respondent from its competitors.

CONCLUSION

The acts and practices of the respondent, as herein found, are all to the prejudice and injury 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 original and amended complaints of the Commission, the answers of respondent, testimony and other evidence taken before trial examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaints and in opposition thereto, briefs filed herein, and oral arguments by William L. Pencke, attorney for the Commission, and by Richard S. Oldberg, attorney for the respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Refrigeration & Air Conditioning Institute, Inc., a corporation, its officers, 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 its correspondence courses of study and instruction in refrigeration and air conditioning, do forthwith cease and desist from:

1. Representing that there is a great or unusual demand in the refrigeration and air conditioning industry for new employees.

Order

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2. Representing that unusual or extraordinary opportunities for employment in said industry are open to persons completing respondent's course of study, or that employment in said industry is assured to such persons.

3. Representing that respondent's school is under the direction or supervision of said industry, or that respondent's school is conducted in cooperation with said industry.

It is further ordered, That said respondent shall, within 60 days after 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.

Complaint

IN THE MATTER OF

HOLLYWOOD RACKET MANUFACTURING COMPANY, INC.

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

Docket 3931. Complaint, Oct. 19, 1939—Decision, July 11, 1941

Where a corporation engaged in interstate sale and distribution of tennis, badminton, and squash rackets, in the course of which business it purchased and imported from Japan unfinished tennis rackets which were there made according to its specifications, and which it further processed and completed in accordance with the particular specifications of the order to be filled; in course of aforesaid processing—

(a) Completely removed, obliterated, and covered up the words "Made in Japan" which appeared upon handle of the racket when imported, and imprinted thereon its name, "Hollywood Racket Mfg. Co.," and made use in its advertising material of legends "Hollywood Rackets" and "Hollywood Racket Mfg. Co.," without disclosing that said rackets were made in Japan, either upon the products themselves or in any of its advertising; and

Where said corporation, engaged as aforesaid in the purchase and importing of unfinished tennis rackets, the handles of which required further processing in addition to that given the rackets described above—

(b) Sold said rackets, likewise, with no disclosure in advertising or otherwise that they were originally made in Japan and imported into this country;

With effect of misleading and deceiving a substantial portion of the purchasing public, familiar with domestic manufacturers' long-established custom of marking products of foreign origin, into the erroneous belief that said rackets were products wholly made in the United States, for which it had a decided preference over those made in Japan or many other foreign countries, with result that a substantial portion of said public purchased its said products, and with effect of placing in the hands of unscrupulous and uninformed dealers a means and instrumentality whereby such dealers were enabled to mislead and deceive members of the purchasing public:

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

Before *Mr. Miles J. Furnas* and *Mr. William C. Reeves*, trial examiners.

Mr. Maurice C. Pearce for the Commission.

Mr. Robert W. Fulwider, 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 Trade Commission having reason to believe that Hollywood Racket Manufacturing Co., Inc., hereinafter referred to as respondent, has violated the provisions of the said act, and it appearing to the Com-