

IN THE MATTER OF
DEFOREST'S TRAINING, INC.

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

Docket 4441. Complaint, Dec. 31, 1940—Decision, Mar. 23, 1942

Where a corporation, engaged in the sale of a course of home study in electronics, including radio, sound and television, and branches thereof, such as facsimile, sound pictures, public address system, and many uses of the electric eye, which might be concluded, at the student's option, with 2 weeks of shop training at said corporation's place of business, in any branch the student might select; by means of booklets, pamphlets, etc., circulated to prospective students by mail, and by numerous salesmen to whom it referred inquiries received in response to advertising—

Made such representations concerning the opportunities in television open to those who completed said course as "If Television develops as we anticipate, it won't be very long until many of the 23,000,000 homes in the U. S. will want Television receivers. * * *"; "So it seems that Television will soon be one of the big industries of this country—possibly as large as the Radio and Sound Picture business combined. It will hold wonderful opportunities for the young man who has the vision and foresight to get into it at the very beginning and pioneer and grow with it"; "* * *. Our Employment Service is available to every enrollee * * *. Through this service we have helped scores of men obtain employment. * * * What we have done for others we can do for you, when you are properly trained. * * *"; and "To the young man seeking to fit himself into this exciting new picture of modern opportunity, *everything* may depend on one factor. That is—whether he has the ambition and foresight to seize this fine chance; whether he makes himself ready for Television NOW, before its pioneering opportunities pass on into history";

The facts being that delay after delay has occurred to postpone commercial development in the television field, involvement of the Nation in active hostilities will undoubtedly result in further delay, and no one can say when it will reach a stage assuring opportunities for the employment of large numbers of men; up to the present, opportunities for employment in that field have been limited to a few individuals with wide training and experience in radio and allied problems, and much broader scientific education than offered by course in question; and while said corporation, during a 3-year period, placed in employment with a large number of different concerns, 1,077 of a total of 1,155 graduates, such employment was usually in beginners' positions for which no training was necessary, and in such instances completion of the course was helpful merely as indicating sustained interest on the part of the individual for that particular field;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such representations were

Complaint

true, and of causing it to purchase said course; thereby diverting trade unfairly from competitors who do not misrepresent their courses, to their injury and that of the public:

Held, That such acts and practices, under the circumstances set forth, constituted unfair methods of competition in commerce, and unfair and deceptive acts and practices therein.

Before *Mr. Arthur F. Thomas*, trial examiner.

Mr. William L. Pencke for the Commission.

Nash & Donnelly, of Washington, D. C., 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 De Forest's Training, Inc., a corporation, 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. Respondent, De Forest's Training, Inc., is an Illinois corporation, with its principal office and place of business located at 2533 North Ashland Avenue, Chicago, Ill. It is now, and for more than one year last past has been, engaged in conducting a vocational school in television, radio, and motion picture sound equipment maintenance and manufacture, and in the sale and distribution in commerce between and among the various States of the United States and in the District of Columbia, of combination home study and shop training courses therein. It has caused and is causing said printed courses of instruction, when sold, to be transported from its place of business in the State of Illinois to the purchasers thereof located in other States of the United States and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a course of trade in said courses of instruction in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its business, respondent is now and has been at all times herein referred to, in substantial competition with other corporations, and with individuals, firms and partnerships, also engaged in the sale and distribution in said commerce of similar courses of instruction intended for preparing students thereof by correspondence for various positions, employments, and trades in the television, radio, motion picture sound equipment and related fields.

Complaint

34 F. T. C.

PAR. 3. In the course and conduct of its business in said commerce as aforesaid, and for the purpose of promoting the sale of its said course of instruction, respondent has secured, and does secure, prospective students and purchasers of its said course by means of mailing lists. Prospective students who answer the circulars mailed to them and who request further information are solicited by various field agents of the respondent, who undertake to enroll said prospective purchasers for the course. Said field agents are furnished by the respondent with sales literature consisting of instructions in the manner in which the course is to be presented to prospective purchasers, illustrations of the motion picture machine which forms part of the equipment furnished to the students, numerous photographs and reprints from newspaper articles, letters of recommendation from other students, and other advertising literature. In the prepared sales talk supplied by respondent and which is to be so used by said agents there appear, among others, the following statements:

This is a new field and one that offers great opportunities for young men—there are real possibilities for the man who is fortunate enough to get into the industry in the near future. Therefore, it is important that only the right type of young man be considered.

* * * * *

If Television develops as we anticipate, it won't be very long until many of the 23,000,000 homes in the U. S. will want television receivers. In addition to broadcasting, this should require the services of thousands of men to design, manufacture, install, and service these units.

There is still another big Television field that should develop in the near future. As you no doubt know, many newspaper pictures are now transmitted by wire, a process which is really a form of wired Television. When this method is speeded up enough to transmit movies, theaters should make daily use of the equipment. When this comes to pass it should bring theaters all over the country into circuits, and no matter where a person is, he should be able to hear and see news events and other things of national interest just as they happen. * * *

So it seems that Television will soon be one of the big industries of this country—possibly as large as the Radio and Sound Picture business combined. It will hold wonderful opportunities for the young man who has the vision and foresight to get into it at the very beginning and pioneer and grow with it.

In the advertising material supplied by respondent and distributed by said agents among prospective purchasers, there appear, among others, the following statements:

Sound, television, radio present world-wide opportunities. Television, a new branch of the Electronic field, is developing rapidly, * * *. After a man is trained the De Forest way, he is ready to enter the Electronic industry and really go places. Our employment service is available to every enrollee no

matter where he lives. Through this service we have helped scores of men obtain employment. Because we train our men well, manufacturers, dealers, and distributors are glad to consider our advanced students and graduates.

What we have done for others we can do for you when you are properly trained. Start your preparation now so you can soon take advantage of our employment service.

Consider TELEVISION a moment! Developments have come so rapidly that the beginning of a new industry is already here. Television is estimated to expand into a billion dollar field. * * *

And Television, like the automobile and other industries in their earlier days, should offer some of the most outstanding opportunities to those who get into the field when it counts most—on the ground floor!

And another demand for trained Television men should come from the installation and servicing of Television receivers. * * *

Yes, the future of TELEVISION, RADIO, SOUND, and SOUND PICTURES—and therefore your future—promises to be one of great growth and possibilities.

PAR. 4. Through the use of the statements hereinabove set forth, and many others of like import and effect, the respondent represents, directly or by implication, that there are at the present time great opportunities for persons who enter upon the field of television: That within a short time there will be a market for large numbers of television receivers; that by vastly increased use of television apparatus thousands of men will be required in said field; that television will soon be as large a business as the radio and sound picture business combined and will offer extraordinary opportunities to people who enter upon the field now; that any man who is trained in the work of television as taught by respondent will be ready to enter the electronic industry and be assured of lucrative employment.

PAR. 5. The foregoing statements and representations are grossly exaggerated, false, misleading and deceptive. In truth and in fact, while television is now occupying the serious attention of scientists, it is still in its infancy, and opportunities for employment and rapid advancement in said field are very few and limited. There is at the present time no assurance that many television receivers will be manufactured and will find their way into the homes of the public. At the present time there are still a number of technical difficulties to be overcome before television apparatus can be sold and distributed on the scale and in the quantity indicated by respondent's representations. It is therefore very doubtful that any great number of men trained and experienced in the field of television will be needed within the near future. While television may at some future time become as large an industry as the radio and sound picture business, there is at the present time no indication that persons entering said field will have unusual opportunities to practice their profession. The demand

at the present time for men trained in the television field is not large enough to warrant respondent's representation that graduates of respondent's school may be readily placed in positions in such field.

Moreover, graduates of respondent's school do not possess sufficient practical experience to qualify as skilled employees or craftsmen in the radio and television industry. The taking of a correspondence course, together with a 2-weeks' shop training, is not sufficient to equip a student with the practical knowledge required in positions in said field, nor will such students be qualified as competent servicemen.

PAR. 6. The representations made by respondent as set out herein have had and now have the tendency and capacity to, and do, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such representations are true, and cause such portion of the public to purchase respondent's said course of instruction instead of the courses of instruction sold by competitors of the respondent who do not in any manner misrepresent their courses of instruction. As a consequence thereof substantial trade has been diverted from said competitors to the respondent, to the injury of such competitors and to the injury of the public.

PAR. 7. The aforesaid acts and practices of the respondent as herein alleged 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on December 31, 1940, issued and subsequently served its complaint in this proceeding upon De Forest's Training, Inc., a corporation, charging it with the use of unfair methods of competition 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 respondent's answer thereto, testimony and other evidence in support of and in opposition to the allegations of said complaint were introduced before an examiner of the Commission theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint, the answer thereto, testimony and other evidence, report of the trial examiner and exceptions thereto, briefs in support of the complaint and in opposition thereto, and oral arguments by counsel; 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, De Forest's Training, Inc., is a corporation organized, existing, and doing business by virtue of the laws of the State of Illinois, with its principal office and place of business at 2533 North Ashland Avenue, Chicago, Ill. Respondent is engaged in the sale of a course of home study in the general field of electronics. This course consists of various books, pamphlets and other written material, and some items of mechanical equipment. Upon completion of the home study by correspondence, respondent furnishes a short period of shop training at its place of business in Chicago.

PAR. 2. In the course and conduct of its aforesaid business, respondent causes the books, pamphlets, other written material, and mechanical equipment used in connection with its correspondence courses to be transported from its place of business in Chicago, Ill., to the purchasers thereof located at various points in the several States of the United States other than the State of Illinois, and respondent maintains, and has maintained, a constant course of trade in said products in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In order to induce the sale of said courses of instruction, respondent advertises its school by various means, including booklets, pamphlets, and other written material circulated to prospective students by mail and by salesmen employed by respondent. Among the statements and representations made to prospective students by means of said written material and by respondent's salesmen are the following:

If Television develops as we anticipate, it won't be very long until many of the 23,000,000 homes in the U. S. will want Television receivers. In addition to broadcasting, this should require the services of thousands of men to design, manufacture, install, and service these units.

There is still another big Television field that should develop in the near future. As you no doubt know, many newspaper pictures are now transmitted by wire, a process which is really a form of wired Television. When this method is speeded up enough to transmit movies, theatres should make daily use of the equipment. When this comes to pass it should bring theatres all over the country into circuits, and no matter where a person is, he should be able to hear and see news events and other things of national interest just as they happen. * * *

So it seems that Television will soon be one of the big industries of this country—possibly as large as the Radio and Sound Picture business combined. It

Findings

34 F. T. C.

will hold wonderful opportunities for the young man who has the vision and foresight to get into it at the very beginning and pioneer and grow with it.

* * * * *

SOUND—TELEVISION—RADIO

Present World-Wide Opportunities

* * * Television, a new branch of the Electronic field, is developing rapidly. * * * After a man is trained the De Forest way, he is ready to enter the Electronic industry and really "go places." Our Employment Service is available to every enrollee, no matter where he lives. Through this service we have helped scores of men obtain employment. Because we train our men well, manufacturers, dealers, and distributors are glad to consider our advanced students and graduates. What we have done for others we can do for you, when you are properly trained. Start your preparation now so you can take advantage of our employment service.

* * * * *

To date, Television has progressed true to prediction. The beginning of a new American industry is already with us—one that may exceed even the spectacular record of Radio—one that should provide an even wider range of opportunities for interesting and profitable careers.

All of these future possibilities * * * all of the present activity in Television * * * combine to spell one word in the mind of the forward-looking, ambitious man, and that is—OPPORTUNITY! Opportunity for the fascinating career he is seeking * * * opportunity to realize some of the material things in life he has always wanted.

* * * * *

Today, the whole brilliant story of Radio's early growth, development and opportunities may repeat itself in TELEVISION. To the ambitious young man, here may be one of his greatest fields of possibilities.

* * * * *

Ambitious men who want steady, big-paying jobs *are needed* in the fast-growing TELEVISION, RADIO, and SOUND PICTURE INDUSTRY. De Forest's Master Training, planned by Dr. Lee De Forest, will properly prepare those selected for responsible jobs.

* * * * *

A word to the Wise About the Future. We will recommend the men we train to numerous manufacturers and dealers to design—manufacture—install—operate and maintain Television, Radio, and Sound Equipment.

* * * * *

But to the young man seeking to fit himself into this exciting new picture of modern opportunity, everything may depend on one factor. That is—whether he has the ambition and foresight to seize this fine chance; whether he makes himself ready for Television Now, before its pioneering opportunities pass on into history.

PAR. 4. Respondent's course consists of approximately 140 lessons which an earnest student may complete in 12 to 18 months by the application thereto of 7 to 12 hours of study per week but which respondent will allow the student to continue for a maximum of 3

years. In connection with the course of lessons respondent furnishes to each student a small motion picture projection machine and a number of films designed to aid the student in understanding the action of electricity. The films remain the property of respondent, but the student is allowed to retain the projector. Upon satisfactory completion of the lessons given by correspondence the student, at his option, may have as a part of his course 2 weeks of shop training at respondent's place of business in Chicago at which time the student may devote himself particularly to any branch of the electronics industry he selects. The respondent does not offer separate courses in particular branches of the electronics field but offers a single course which includes radio, sound, and television and branches thereof such as facsimile, sound pictures, public address systems, and many uses of the electric eye. The charge made by respondent for its course is \$145 if payment is made in cash, or \$165 if paid on the installment plan. If the student so elects, for an additional \$60 respondent will furnish transportation to and from Chicago and room and board while there to the student taking the 2 weeks of shop training. Otherwise, the student may make his own arrangements for transportation to and from Chicago and lodging while there. Under the contract between respondent and a student the student may quit at any time upon certain terms and conditions. Respondent maintains the right to sue for performance of such contract but rarely resorts to suit.

The principal method used by respondent in promoting the sale of its course in electronics is to circularize by mail young men in the classes graduating from high school. Respondent has some 50 salesmen located at various points in the United States and when an inquiry is received in response to any advertising circular a salesman calls upon the prospect and attempts, by means of a sales routine and instructions furnished by respondent, to secure his enrollment as a student. Prospective students are not promised a job upon satisfactory completion of the course, but are informed of the employment assistance furnished and advised that respondent will use every reasonable effort to secure employment for them. Graduates of the school are not termed "engineers" but are referred to as "technicians." Students are generally high school graduates and approximately 90 percent have had no practical experience at the time they undertake respondent's course.

Respondent began its present business in 1931 and about 1936 or 1937 added to its advertising, promotional literature, and representations various statements concerning television, its future growth, and the opportunities for employment of trained men in television.

Findings

34 F. T. C.

PAR. 5. Television has been the subject of research, experimentation, and development for many years. The introduction of television to the general public began at the opening of the World's Fair in New York in April 1939, at which time television was practicable, and several thousand television receivers have been manufactured and a substantial number thereof sold to members of the public. The question of the establishment of standards to avoid undue obsolescence of receiving equipment which might be sold to the public was before the Federal Communications Commission, and on April 30, 1941, that Commission approved, with certain reservations, a set of standards and authorized the limited commercialization of television. At hearings in the present proceeding prior to the action taken by the Federal Communications Commission a number of officials of concerns prominent in the radio, television, and broadcasting fields testified to the general effect that television was then commercially practicable and its commercialization was largely dependent upon the action taken by the Federal Communications Commission with respect to authorizing its commercial development. They were agreed that television would become a large and important industry, perhaps as large or larger than the radio industry; that its possibilities were immense in many directions; and that when its commercial development began large numbers of men would be employed in the production, sale, and servicing of television receivers and in various ways in connection with broadcasting of television programs and other technical aspects of the art. The greatest divergence of opinion was with respect to the time element involved; that is, when commercialization on a substantial scale would occur. Some witnesses felt that this was in the immediate future or that it would immediately follow the establishment of standards by the Federal Communications Commission and authorization for its introduction to the public. Some felt that the prospects were not nearly so immediate, and it was pointed out that even after standardization there could be no immediate substantial development because of problems which must be solved with respect to the erection of broadcasting equipment, with respect to the provision of suitable programs, the sale of a sufficient number of sets whereby the heavy cost of broadcasting programs might be met by securing sponsors for programs, and many other practical considerations the solution of which would all require time. One well qualified witness expressed the view that for many years television has been plagued by wishful thinking and optimistic statements as to its immediate future by those who failed to consider the fact that commercial development even at best would require several years to become substantial.

PAR. 6. It is plain that, regardless of the optimism of various individuals engaged in the television field with respect to its commercial development, delay after delay has occurred to postpone that development. Even after the action of the Federal Communications Commission referred to above, the involvement of the nation in active hostilities will undoubtedly result in further delay. The fact is that no one can say with certainty when the commercial development of television will reach a stage which assures opportunities for the employment of large numbers of men.

However, during the past several years respondent has made various representations presenting an entrancing prospect of the possibilities and opportunities in television said to be open to those who have completed its course. The fact is that during those years and up to the present time there have been no opportunities for the employment of graduates of respondent's school in the television field, and there is no evidence that any graduates were actually placed in employment in that field by respondent. Only a limited number of people have up to this time been employed in television, and it has been principally an experimental and research problem for which respondent's course does not qualify students. In fact, the field has been limited to a few individuals with wide training and experience in radio and allied problems and a few graduates of recognized technical colleges and universities having a much broader scientific education and training than is offered by respondent's course.

PAR. 7. Respondent has maintained, and does maintain, an employment service for advanced students in, or graduates of, its school and has an employment manager to seek the establishment of relations with employers which would aid in placing students of respondent's course. From 1937 to 1940 a total of 1,155 men were graduated from respondent's school, and during this period of time 1,077 were placed in employment with some 137 different employers, including many large and well-known concerns such as General Electric Co., Westinghouse Electric & Manufacturing Co., Illinois Bell Telephone Co., Western Electric Co., and numerous others. The employment found for graduates is usually work as beginners at wages ranging from \$15 to \$25 weekly, and frequently is in positions for which mastery of respondent's course is not needed and for which no training is necessary. In such instances the completion of respondent's course is helpful merely to the extent of indicating sustained interest and enthusiasm on the part of the individual student for the particular field in which employment is sought.

PAR. 8. Respondent's representations have had, and now have, the tendency and capacity to, and do, mislead and deceive a substantial

Order

34 F. T. C.

portion of the purchasing public into the erroneous and mistaken belief that such representations are true, and cause such portion of the purchasing public to purchase respondent's said course of instruction, and as a consequence thereof substantial trade has been diverted from competitors of respondent who do not misrepresent their courses of instruction, to the injury of such competitors and of the general public.

CONCLUSION

The aforesaid acts and practices of respondents 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 and in opposition to the allegations of said complaint taken before an examiner of the Commission theretofore duly designated by it, report of the trial examiner and exceptions thereto, briefs filed herein, and oral arguments by counsel; 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, De Forest's Training, 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 of any course of study in television or electronics in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing directly or by implication that there are possibilities or opportunities for employment of students or graduates of respondent's course in the television field until substantial numbers of such students or graduates have been, and can be, employed directly in such field.

2. Representing directly or by implication that there are now, or in the near future will be, possibilities or opportunities for the employment of students or graduates of respondent's course in the television field until the commercial development of television is sufficiently advanced to assure immediate availability of such possibilities or opportunities.

902

Order

3. Misrepresenting in any manner the possibilities or opportunities for employment of students or graduates of respondent's course in the television field or any other branch of the electronics industry.

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.

Complaint

34 F. T. C.

IN THE MATTER OF

WILLIAM E. BOYER AND ROBERT J. BOYER, TRADING
AS BOYER BROTHERS

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

Docket 4475. Complaint, Mar. 25, 1941—Decision, Mar. 23, 1942

Where two individuals, engaged in competitive interstate sale and distribution of assortments of candy and push cards, such as their "Round House" assortment, consisting of a number of uniform candy bars, together with a push card for use in their resale under a plan by which the purchaser received for the five cents paid 1, 2, 3, or 4 bars, in accordance with number selected by chance from card as explained thereon, and person making last push received a "large delicious candy surprise"—

Sold such assortments to wholesalers, jobbers and retailers, by whom they were exposed and sold to the purchasing public in accordance with aforesaid plan; and thereby supplied to and placed in the hands of others a means of conducting lotteries in the sale of their candy in accordance with such plan, under which the number of bars of candy received for the money paid was determined wholly by lot or chance, and there was involved sale of a chance to procure additional bars without additional cost; contrary to an established policy of the Government of the United States, and in competition with many who, unwilling to use a method involving chance or contrary to public policy, refrain therefrom;

With the result that many persons were attracted by said sales plan and were thereby induced to buy and sell such individual's candy in preference to that of their said competitors, and that because of said game of chance, trade was unfairly diverted to them from their competitors aforesaid; to the substantial injury or competition in commerce:

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 acts and practices therein.

Before *Mr. A. B. Duvall* and *Mr. John W. Addison*, trial examiners.
Mr. J. V. Mishou for the Commission.

Jubelirer, Jubelirer & Smith, of Altoona, Pa., for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said act, the Federal Trade Commission having reason to believe that William E. Boyer and Robert J. Boyer, individually and trading as Boyer Brothers, hereinafter referred to as respondents, have violated the provisions of said act and it appearing to the Commission that a proceeding