

Syllabus

IN THE MATTER OF

CHICAGO TECHNICAL COLLEGE

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4089. Complaint, Apr. 13, 1940—Decision, Oct. 12, 1942*

Where a corporation, engaged, in addition to conduct of day and evening classes, in competitive interstate sale and distribution of correspondence courses in drafting, building, air-conditioning and refrigeration; in soliciting sale thereof through advertisements in newspapers, periodicals of general circulation and radio broadcasts—sending to those replying thereto various forms, contracts and advertising material, and in some instances calling upon prospective purchasers through its agents—

(a) Represented that the employment and consultation services which it offered to its students and graduates were free, and that its home study courses were available to a limited number of students only;

The facts being that the cost of its featured employment and consultation service through which it aided students completing its courses in securing employment, was included in the amount paid for the course and was therefore not "free"; and the only limit on the number of its students was the number which could be induced to enroll;

(b) Represented that it was a "recognized" or "accredited" school, implying thereby that credits for work done in its courses were transferable to other schools;

The facts being that while it had received recognition from the Illinois Superintendent of Public Instruction, the Chicago Board of Education, and the Illinois State Examining Board for Teachers Certificates, such recognition did not mean that other institutions had agreed to or would give transferring students credit for work done at its said school; and few, if any, colleges would accept credits for home study courses given by other institutions;

(c) Represented that individuals completing its home study courses were thereby insured of employment, promotion, and success;

The facts being that such results were necessarily dependent upon many factors beyond its control;

(d) Falsely represented that individuals completing its home study training in drafting would thereby be qualified to do expert drafting work and for the top-ranking positions in drafting; and that its home study training in air-conditioning and refrigeration would qualify students for top-ranking positions in those fields;

The facts being said courses would not thus qualify the typical or average individual for the top-ranking or more difficult and intricate work in the fields in question;

With tendency and capacity to mislead prospective purchasers into the mistaken belief that such representations were true, thereby inducing them to purchase and pursue such courses; whereby trade was unfairly diverted to said corporation from competitors, to the injury of competition in commerce:

Complaint

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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* and *Mr. Lewis C. Russell*, trial examiners.

Mr. R. A. McOuat and *Mr. William L. Pencke* for the Commission.

Mr. Harry M. Ehrlich, of Chicago, Ill., 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 Chicago Technical College, 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 complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Chicago Technical College, 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 118 East Twenty-sixth Street, in the city of Chicago, State of Illinois.

PAR. 2. Said respondent is now and has been engaged in the sale and distribution in commerce of home-study courses in drafting, in air-conditioning and refrigeration, and in building; with said courses of study and instruction being pursued by correspondence through the medium of the United States mail. It causes said courses, together with books and material connected therewith, when sold, to be transported from its aforesaid place of business in the State of Illinois to the purchasers thereof located in various other States of the United States and in the District of Columbia. Said respondents maintain, and at all times mentioned herein have maintained, a course of trade in said courses in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. Said respondent is now, and during all the times mentioned herein has been, in substantial competition with other corporations, and with firms, partnerships and individuals also 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 similar home-study courses in drafting, in air-conditioning and refrigeration, and in building, which are likewise pursued by correspondence through the medium of the United States mail.

PAR. 4. Said respondent, in soliciting the sale of and in selling its said courses of study and instruction, and in the distribution thereof in commerce, has made numerous misleading statements and 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 and typical of such misleading statements and representations made by or through one or more of the said methods are the following:

1. That, "Only through Chicago Tech. can you obtain 'college training at home.' The swift, sure way to succeed in drafting."
2. That, "My correspondence course from Chicago Tech. has equipped me for my work as well as a similar four-year university course would have done."
3. That, "This certificate is issued to _____ and will be accepted by the Chicago Technical College as payment in full for the complete course, 'Inside Facts on Drafting', provided that this certificate is accompanied by this enrollment for the college home-study courses in drafting."
4. That, "This certificate is issued to _____ and will be accepted by the Chicago Technical College as payment in full for the complete course, 'Inside Facts on the Business of Building', provided that this certificate is accompanied by his enrollment for the college home-study builder's course."
5. That, "Now given to you free of extra cost * * * 'The Inside Facts of Drafting' * * * Learning the facts about how to sell your services quickly * * * 'Inside Facts of Drafting' shows you how, yet it doesn't cost you one penny extra if you just decide to use the enclosed certificate at once and act today. This amazing offer is yours today."
6. That the employment and consultation services which it offers to its students and graduates are free.
7. That its home-study courses are available to only a limited number of students.
8. That Chicago Technical College is an accredited school.
9. That Chicago Technical College is the leading school for builders.
10. That the tuition charges for its various home-study courses will in the future be increased.
11. That individuals completing its home-study courses in building are thereby insured of employment, of promotions and of success.
12. That its home-study course in drafting is recognized by employers of draftsmen generally.
13. That individuals using the Chicago Technical College plan of home-study training in drafting and those completing such training will thereby be qualified as experienced draftsmen, will be qualified to do expert drafting work and will be qualified for the top-ranking positions in drafting.

14. That the Chicago Technical College home-study courses in drafting and in air conditioning and refrigeration cost less than half that of other well-known courses in the same subjects.

15. That Chicago Technical College home-study training in air conditioning and refrigeration will qualify one for the top-ranking positions in the air conditioning and refrigeration field.

16. That the demand for draftsmen far exceeds the supply.

17. That positions open and available in the air conditioning and refrigeration field are plentiful and that properly trained applicants may have their choice of such positions.

PAR. 5. The foregoing statements and representations are false, misleading, and deceptive. In truth and in fact, the Chicago Technical College is not the only way to obtain college training at home or is it a swift, sure way to succeed in drafting and a correspondence course from the Chicago Technical College is not equivalent to a 4-year university course. The certificate referred to will not be accepted by respondent as full payment for a course in drafting or in building, nor will "The Inside Facts of Drafting" be furnished free and without cost to those presenting such certificates. Employment and consultation services are not furnished free to its students by respondent, nor are the home-study courses advertised available only to a limited number of students but they are sold generally to all applicants. The Chicago Technical College is not an accredited school, nor is it the leading school for builders, nor is it recognized as such by employers of draftsmen generally. Individuals completing respondent's home-study courses in building are not insured or assured of employment, promotions, or success, nor are they able to secure top-ranking positions in the air-conditioning and refrigeration industry. The demand for employees in this field is not far in excess of the supply but, on the contrary, the field is crowded and many well-trained applicants are available for positions that are not open. The cost of respondent's home-study courses is not less than one-half the cost of other well-known courses in the same subjects.

PAR. 6. The foregoing acts and practices used by respondent in connection with the offering for sale and distribution of its said courses of study and instruction, as hereinbefore set out, 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 and distribution in commerce between and among the various States of the United States and in the District of Columbia of correspondence courses in drafting, in air conditioning and refrigeration, and in building, 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 out, 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. 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 April 13, 1940, issued and subsequently served its complaint in this proceeding upon respondent, Chicago Technical College, a corporation, charging it with the use of unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of 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 briefs in support of and in opposition to the complaint (oral argument not having been requested): and to 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, Chicago Technical College, 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 2000 South Michigan Boulevard, Chicago, Ill.

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Respondent was organized in 1904 as an evening school and in 1906 day classes were added. In 1911 home study or correspondence courses were added and have been continued since that time. Respondent has gradually increased its enrollment until it now has, in addition to those students taking correspondence courses, some 1,400 to 1,500 students attending classes conducted at respondent's place of business in Chicago.

PAR. 2. In the course and conduct of the aforesaid business respondent is now, and has been, engaged in the sale and distribution of correspondence courses in drafting, building, and air conditioning and refrigeration. It causes said courses, together with books and material connected therewith, when sold, to be transported from its place of business in Chicago, Ill., to the purchasers thereof located in various other States of the United States and in the District of Columbia, and maintains, and has maintained, a course of trade in said courses of study and instruction in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In carrying on its said business respondent has been, and is, in substantial competition with other corporations and with partnerships and individuals 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 correspondence courses in drafting, building, and air conditioning and refrigeration.

PAR. 4. Respondent's method of soliciting the sale of its said home study courses is to place advertisements in newspapers, magazines, and other periodicals having general circulation throughout the United States and to cause such advertisements to be broadcast by radio. When inquiries are received in response to such advertisements, various forms, contracts, and advertising material are sent to prospective purchasers, and in some instances agents and representatives of respondent call upon such prospective purchasers and endeavor to complete the sale of respondent's correspondence courses.

In the solicitation of the sale of its said home study or correspondence courses of instruction respondent, through the advertising matter caused to be published and circulated as aforesaid, through radio broadcasts, through its agents and representatives, and in the forms, contracts, and advertising material sent to prospective students and others, has made various statements and representations, including the following:

That the employment and consultation services which it offers to its students and graduates are free;

* * *

Findings

That its home study courses are available to only a limited number of students;

* * *

That respondent is an accredited school;

* * *

That individuals completing its home study courses in building are thereby insured of employment, of promotions, and of success;

* * *

That individuals using respondent's plan of home study training in drafting, and those completing such training, will thereby be qualified as experienced draftsmen, will be qualified to do expert drafting work, and will be qualified for the top-ranking positions in drafting;

* * *

That respondent's home study training in air-conditioning and refrigeration will qualify those completing such training for the top-ranking positions in the air-conditioning and refrigeration field.

PAR. 5. Respondent maintains an employment and consultation service through which it aids numerous of the students completing its courses of study in securing employment. This assistance is featured and emphasized by respondent in its advertising and promotional material as an inducement to prospective students to enroll in its courses. This assistance, however, is obviously not "free," as represented by respondent, since the cost thereof is included in the amount paid by a student for the course taken.

The representation by respondent that its home study courses are available to only a limited number of students is not supported by the facts. There is no limitation placed by respondent upon the number of students which it will enroll in home study courses. Such courses are offered generally and the only limit to the number of home study students is the number which can be induced to enroll.

Respondent represents that it is a "recognized" or "accredited" school. To many students or prospective students these terms signify or mean that credits earned for work done are transferable to and accepted and recognized by other schools, thus permitting the transfer of a student from respondent's school to another without the necessity of examination or loss of time through the refusal of a school to recognize the work done by a transferring student in respondent's school. In the case of colleges and other higher institutions such transfers of credits are facilitated through agreements by such institutions, which are members of various voluntary associations. Respondent is not a member of any such association. It has received from the Superintendent of Public Instruction of the State of Illinois "official recognition as a special school of technology," and the Board of Education of the city of Chicago recognizes work done at respondent's school "for promotional credit for the teachers of the Chicago public schools," and it is authorized by the Illinois State Examining Board for Teach-

ers Certificates to say that "It is recognized by the State Superintendent of Public Instruction and the State Examining Board for Teachers Certificates of Illinois as a fully recognized special school of technology." The recognition thus accorded respondent does not, however, mean that other institutions have agreed to or will give transferring students credit for work done at respondent's school. This fact is emphasized in a letter from the Board of Education of the city of Chicago to respondent which states in part:

Of course, the fact that we accredit the school does not mean that we can in any way guarantee that the work will be recognized as college credit by the various universities. This determination must be left to the individual colleges and universities themselves.

Although respondent will accept in its resident school credits earned by students in its home study or correspondence courses, few, if any, colleges will accept credits for home study courses given by any other institution. In the absence of any qualification or explanation, the representation by respondent that it is a recognized or accredited school has the capacity and tendency to mislead students and prospective students as to the transferability of credits earned for work done in respondent's courses.

It is not a fact that individuals completing respondent's home study courses are thereby insured of employment, of promotions, and of success. Employment, promotions, and success are necessarily dependent upon many factors which are not within the control of respondent. Neither is it a fact that individuals completing respondent's home study courses in drafting are thereby qualified as experienced or expert draftsmen, or to do expert drafting work, or qualified for the top-ranking or more intricate and difficult drafting work.

The home study course in air-conditioning and refrigeration sold by respondent will not qualify the typical or average individual completing such course for the top-ranking or more difficult and intricate work in the air-conditioning and refrigeration field.

PAR. 6. The foregoing statements and representations made by respondent in connection with the offering for sale, sale, and distribution of its courses of study and instruction have had, and have, the tendency and capacity to mislead purchasers and prospective purchasers thereof into the erroneous and mistaken belief that such representations are true, and to induce them to purchase and pursue such courses of study and instruction. Thereby trade is unfairly diverted to respondent from competitors engaged in the sale and distribution in commerce of correspondence courses in drafting, air-conditioning and refrigeration, and building. As a result of respondents' said practices substantial injury has been done, and is now

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being done, by respondent to competition in commerce between and among various States of the United States.

CONCLUSION

The aforesaid acts and practices of respondent 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 complaint of the Commission, the answer of respondent, testimony, and other evidence taken before an examiner of the Commission theretofore duly designated by it, and briefs filed herein, 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, Chicago Technical College, 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 correspondence courses of study and instruction in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by inference:

1. That any service or commodity, the cost of which is included in the purchase price of any other service or commodity, is "free," either by the use of the term stated or any other term or terms of similar import or meaning.

2. That respondent's correspondence courses are offered to only a limited number of persons, or that the number of persons who will be enrolled for such courses is limited.

3. That respondent is a recognized or accredited school, without disclosing in immediate connection therewith, in a clear and conspicuous manner, the nature and extent of such recognition or accreditation, and the application thereof to its correspondence courses.

4. That upon completion of its correspondence courses individuals are insured or otherwise made certain of employment, promotion, or success.

5. That upon completion of respondent's correspondence course in drafting individuals will be qualified thereby as experienced or expert

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draftsmen, or qualified for top-ranking drafting positions handling the more intricate or difficult drafting work.

6. That upon completion of respondent's correspondence course in air-conditioning and refrigeration individuals will be qualified thereby for top-ranking positions in air-conditioning and refrigeration handling the more intricate and difficult air-conditioning or refrigeration work.

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.

Syllabus

IN THE MATTER OF

ZENITH RADIO CORPORATION

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

Docket 4174. Complaint, July 6, 1940—Decision, Oct. 12, 1942

Where a corporation, engaged in manufacturing and assembling radio receiving sets, radio tubes and similar products, and in interstate sale and distribution thereof; by means of advertisements in newspapers and magazines, folders and circulars, and also through radio broadcasts—

- (a) Represented, directly or by implication, that its radio sets were capable of bringing in programs broadcast from Europe, South America, and the Orient every day, and that such programs would be reasonably audible and distinct at all times and under all conditions, through such typical statements as "EUROPE IS TALKING TO YOU Every Night IN ENGLISH—ARE YOU LISTENING? With Zenith, the short-wave radio that gives you 'Europe, Direct' you can hear all the leaders * * * all the daily news broadcasts * * * Europe, South America, or the Orient every day guaranteed or your money back on all short-wave Zeniths";

The facts being that there are times when, due to atmospheric conditions, electrical disturbances, and other obstacles which the industry has so far been unable to overcome, satisfactory reception of foreign broadcasts is impossible and neither its or any other sets are capable of providing such reception at all times or under all conditions;

- (b) Represented, directly or by implication, through such typical statements as "6-Tube Superheterodyne Table Model," "8-Tube Superheterodyne With Wavemagnet Aerial," etc., that sets advertised by it as containing 6 or 8 tubes contained said number of necessary and fully functioning tubes for the detection, amplification, and reception of radio signals;

The facts being that one of such devices in certain sets was not a tube but merely a tuning indicator, and one or more of the others were rectifier tubes which, while serving the auxiliary function of changing alternating into direct current, do not perform the primary function of detecting, amplifying, or receiving radio signals, and a substantial portion of the purchasing public does not distinguish between tubes which perform such primary functions and rectifier tubes and tuning indicator devices which perform only auxiliary functions, but believes that the greater the number of tubes, the greater will be the set's power;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the mistaken belief that said radio receiving sets possessed capacities which they did not in fact possess, thereby causing its purchase of such sets:

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

As respects the extent of the public understanding of the limitations on foreign short-wave radio reception—in connection with advertiser-seller's direct or implied representations that its sets were capable of bringing in programs