

Complaint

IN THE MATTER OF

UTILITIES ENGINEERING INSTITUTE

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

Docket 4532. Complaint, July 8, 1941—Decision, Aug. 31, 1943

Where a corporation engaged in interstate sale and distribution of correspondence courses in, among other subjects, refrigeration, air-conditioning and welding, including provision for the student's bus fare to and from Chicago and for room and board during 2-weeks' shop training to which, without further charge, upon satisfactory completion of his lessons and at his option, he was entitled; through newspaper and periodical advertisements, printed matter circulated by mail and otherwise, and through canvassers—

(a) Represented that upon completion of its said correspondence courses, a student would be qualified as an expert welder and as an expert in refrigeration and air-conditioning, and be qualified to install, repair or otherwise service such equipment;

The facts being that theoretical instruction alone can not make one an expert welder without broad practical experience; the course concerned did not, in said respect, provide the necessary background of experience; and graduates of its refrigeration and air-conditioning courses similarly were not thereby expert in said subjects, nor, even assuming full training in the theory thereof upon completion of the course, followed by the two weeks' shop training, qualified to undertake upon their own responsibility installation, repair or service of refrigeration and air-conditioning machinery and equipment; and

(b) Represented also that there was a great demand for men qualified as its students would be upon completion of its course, to plan, install, repair and service refrigeration and air-conditioning machinery, with better and more profitable employment certain and success assured;

The facts being that concerns engaged in such work generally do not employ as a service man or workman one who has not had considerable actual experience; graduates of such correspondence school courses are usually employed as helpers or shop employees, subject to supervision and direction until they have acquired sufficient experience and demonstrated ability necessary for the performance of such work without it; and while there was an increase in the number of such installations, both domestic and commercial, and reasonable opportunities for employment for expert maintenance and service men—although on a partly seasonal basis—preceding the abnormal war-induced conditions, such employment was not available to such students or graduates, who were limited initially, as above set out;

With tendency and capacity to mislead prospective purchasers of courses in question into the mistaken belief that such representations were true, thereby inducing purchase thereof:

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

Complaint

37 F. T. C.

Before *Mr. James A. Purcell*, trial examiner.

Mr. William L. Pencke for the Commission.

Mr. Henry Junge, 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 Utilities Engineering Institute, 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, Utilities Engineering Institute, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 1314 Belden Avenue in Chicago, State of Illinois.

PAR. 2. Respondent is now, and for more than one year last past has been engaged in the sale and distribution of correspondence courses in air conditioning, electric refrigeration, welding, and automobile body repairs direct to the purchasing public located in the various States of the United States other than the State of Illinois, and in the District of Columbia.

In the course and conduct of its business, and in connection with the sale and distribution of its said correspondence courses, respondent transports or causes to be transported printed copies of its lessons, examination questions, pamphlets and various documents from its place of business in the State of Illinois to the purchasers thereof located in various States of the United States other than the State of Illinois, and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained, a substantial course of trade in said correspondence courses, in commerce, among and between the various States of the United States and in the District of Columbia.

PAR. 3. Said respondent, in soliciting the sale of and in selling its said courses of study and instruction, in commerce, 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 and printed matter circulated or caused to be circulated by said respondent by mail and otherwise to prospective students, enrolled students or to members of the public generally in various states of the United States; and in radio broadcasts to mem-

Complaint

bers of the general public, including prospective students. Typical of such misleading representations made by or through one or more of the said methods are the following:

There are unlimited opportunities for young men who want to become actively and profitably engaged in this fascinating field.

Men already employed in the industry have found U. E. I. training leads to rapid promotion with increased earnings.

A vast number of ambitious men have benefited immeasurably through U. E. I.

Manufacturers of refrigerators employ trained men in their production departments in addition to the thousands employed in the service departments of their extension dealer organization.

After satisfactorily completing U. E. I. training you will be ready for gainful employment in one of the fastest growing and most promising industries.

Are you awake to the splendid opportunities open to serious minded men in the air conditioning and refrigeration industry? Here's one business that needs men—NOW—for estimating, planning, installing and servicing of equipment. If you are mechanically inclined and willing to devote part of your spare time to study, investigate this opportunity today.

Don't pass up this opportunity for BETTER employment, HIGHER earnings and a BRIGHTER FUTURE.

I'd recommend your training to any ambitious mechanically minded young man. Since completing the course I have had nothing but success from the start.

Men with U. E. I. training have obtained employment with distributors, dealers and service organizations for practically all the leading manufacturers of refrigerating and air conditioning equipment * * *

You read of the shortage in industry of trained men—men capable of taking the bigger pay, greater profits jobs of men trained in modern developments such as air conditioning and refrigeration, in auto body and fender work, including metal work, welding and painting * * *. Many manufacturers endorse a training plan that can let you take your place in this pleasant and profitable field and please note—this is spare time training that will not interfere with your present employment. Find out how you may prepare to join the huge army of skilled workers who are so vitally necessary right now.

The Utilities Engineering Institute will furnish you complete information on how you can be trained to become an expert welder. They will teach you at home in your spare time the fundamental and basic things you must know to qualify as an expert. * * * You'll also receive the benefit of a carefully planned placement service. * * * You can learn body and fender craftsmanship in your spare time.

* * * get complete information regarding a training program which has helped other men just like you to get ahead in this chosen field; training that is endorsed by leading manufacturers of refrigerating and air conditioning equipment; training selected by leaders to train their own dealer organizations. * * *

Utilities Engineering Institute is endorsed and recommended by so many great manufacturers in the field. * * * Take the training manufacturers have used in the training of their own employees.

PAR. 4. By means of the foregoing statements the respondent represents that the opportunities in the air conditioning and electrical re-

Complaint

37 F. T. C.

frigeration industries are unlimited; that the taking of its said courses of instruction will lead to rapid promotion, higher earnings and greater opportunities; that success is assured from the start after completion of its courses of instruction in air conditioning and electrical refrigeration; that the training provided by respondent's course in welding will qualify one as an expert welder; that leading manufacturers employ large numbers of respondent's graduates, endorse its courses and utilize said courses in training their employees; that the opportunities in the air conditioning, electrical refrigeration, automobile body repair and welding industries are greater and employment more certain than in other industries.

PAR. 5. The aforesaid statements and representations are misleading and grossly exaggerated. The opportunities in the air conditioning and electrical refrigerating industries are not unlimited. Students who complete said training are not assured employment and, generally, jobs are not available for all graduates. Only a limited number of students enrolled complete the course, and of those only a limited number obtain positions in the industry. Success is not assured from the start, or at all, to those who complete respondent's courses of instruction. Rapid promotion, higher earnings and greater opportunities do not ordinarily result from taking said courses of instruction. While there may be some manufacturers and distributors of air conditioning and refrigeration equipment who have endorsed said courses of study and recommended them to their employees, they do not constitute a representative number of leading manufacturers and dealers of such equipment. The air conditioning and refrigeration industry is not, generally speaking, in need of men not available through the usual channels, and there is not a great or unusual demand for men in said industry. Ordinarily, manufacturers train their own men in connection with the manufacturing of said equipment, and dealers and service men require men with substantial practical experience in their respective branches of said industry.

The completion of respondent's courses of instruction in the welding and automobile body repair trades will not qualify a student as an expert in said trades; in addition to the theoretical instruction and training a substantial amount of practical experience is necessary to qualify anyone as an expert. The opportunities for employment and increased earnings in such trades are not greater than in many other trades and industries.

PAR. 6. Respondent, through the use of the words "Engineering Institute" as a part of its corporate name, falsely represents or implies that it is a group or organization of engineers of the air conditioning and electrical refrigeration industries instituted for the purpose of

considering the problems of said industries from a scientific and technical standpoint and to further and promote the interests and welfare of such industries generally.

In truth and in fact, respondent's business is a correspondence school, organized and operated for the purpose of offering and selling correspondence courses in air conditioning, electrical refrigeration, welding and automobile body repairing solely for the financial profit of respondent. While respondent maintains at its place of business a laboratory for the purpose of giving its students a short optional practical training which is taken by some of its students at the conclusion of the correspondence courses and occasionally may perform certain laboratory tests at the request of some members of the industry, it is not in any sense an organization composed of members of the industry who meet regularly for the purpose of discussing and solving scientific or technical problems incident to the air conditioning and electrical refrigeration industries and of furthering the interests of said industries generally.

PAR. 7. The use of the aforesaid misleading and deceptive statements and representations by respondent, in connection with the offering for sale and sale of 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 are true, and to induce them to purchase and pursue such courses of study and instruction on account thereof.

PAR. 8. The aforesaid acts and practices of respondent are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on July 8, 1941, issued and subsequently served its complaint in this proceeding upon respondent, Utilities Engineering Institute, a corporation, charging it with the use of 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 came on for final hearing before the Commission on the

said complaint, answer thereto, testimony and other evidence, report of the trial examiner and exceptions thereto, briefs in support of and in opposition to the complaint, and oral arguments of 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, Utilities Engineering Institute, is a corporation, organized and existing under and by virtue of the laws of the State of Illinois, with its principal office and place of business at 1314 Belden Avenue, Chicago, Ill.

PAR. 2. For several years last past respondent has been and is now engaged, as a part of its business, in the sale and distribution to members of the public of correspondence courses of instruction in various subjects, including refrigeration, air-conditioning, and welding. In the course and conduct of its said business and in connection with the sale and distribution of its said correspondence courses, respondent transports or causes to be transported printed copies of its lessons, examination questions, pamphlets, and various other documents from its place of business in the State of Illinois to purchasers thereof located in various States of the United States other than the State of Illinois and in the District of Columbia. Respondent maintains, and has maintained, a substantial course of trade in said correspondence courses of instruction in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In soliciting the sale of its said courses of study and instruction in commerce, respondent has advertised such courses to prospective students and members of the public generally in various States of the United States by means of radio broadcasts and advertisements in newspapers and periodicals which circulate among members of the public, by means of printed matter circulated or caused to be circulated by mail and otherwise to prospective students, and by agents engaged in soliciting the sale of such courses. In the solicitation and sale of, and in order to induce and aid in inducing the sale of, its said courses of instruction, respondent has, by the means aforesaid, made numerous false and misleading representations, of which the following are typical:

The Utilities Engineering Institute will furnish you COMPLETE information on how you can be trained to become an expert welder. They will teach you, at home, in your spare time, the fundamental and basic things you must know to

365

Findings

qualify as an expert; to qualify for the really GOOD jobs that are opening up for expert welders right now. (Com. Ex. 4.)

There's a steady demand for trained men who can service and maintain refrigeration equipment * * * and there's a shortage of trained men who can do that kind of work and do it right. * * * The Utilities Engineering Institute has been training men for industrial work for a good many years. It gives you the training you need to make you a refrigeration and air-conditioning expert. (Com. Ex. 7-A.)

You'll receive complete information absolutely free and without obligation showing how you can learn at home in your spare time to cash in on the profitable, pleasant fields of electric refrigeration. * * * air-conditioning * * *. (Com. Ex. 9-B.)

YOU READ OF THE SHORTAGE IN INDUSTRY OF TRAINED MEN . . . MEN CAPABLE OF TAKING THE BIGGER PAY, GREATER PROFITS JOBS . . . OF MEN TRAINED IN MODERN DEVELOPMENTS SUCH AS AIR-CONDITIONING AND REFRIGERATION * * * AND * * * WELDING. * * * THERE IS A GREATER OPPORTUNITY *THAN EVER BEFORE* FOR THE MAN TRAINED FOR THE HIGHER PAYING JOBS IN THIS PROFITABLE, PLEASANT TRADE. TRAINED MEN ARE NEEDED IN ALL BRANCHES OF INDUSTRY . . . AND YOU MAY BE ONE WHO CAN CASH IN ON TODAY'S DEMAND! (Com. Ex. 10-A and B.)

Now men—here's that important message we have for you—that Chance of a Lifetime for you to be independent and happy . . . free of the cares that go with a small, uncertain income. * * * UTILITIES ENGINEERING INSTITUTE can give you the training necessary for you to realize your dreams of success! (Com. Ex. 11-A and B.)

You men who are on the lookout for a better job in life—listen to this: Are you awake to the splendid opportunities open to serious minded men in the air-conditioning and refrigeration industry? Here's one business that needs men—NOW—for estimating, planning, installing and servicing of equipment. (Com. Ex. 13-A.)

The Air-Conditioning and Refrigeration Industry is growing so fast that one of its greatest needs is trained men. Men are needed to install, repair and service the vast amount of equipment being placed in operation *today*. To meet this need, the nationally known UTILITIES ENGINEERING INSTITUTE is selecting properly qualified men to train for positions in this fast growing business. * * * You should by all means investigate the opportunities that exist in this great industry of the future. (Com. Ex. 17-A.)

I'd recommend your training to any ambitious, mechanically minded young man. Since completing your course I have had nothing but success from the start. (Resp. Ex. 13-C.)

By the use of statements such as those quoted above, and others similar thereto, respondent has represented that upon completion of its correspondence courses in refrigeration, air-conditioning, or welding a student is qualified to install, repair, or otherwise service refrigeration and air-conditioning equipment, and is an expert in such work, or is qualified as an expert welder. Such advertisements have also represented that there was a great demand for men qualified—as its students would be qualified upon completion of said courses—to plan, install, repair, and service refrigeration and air-conditioning machinery, and that better and more profitable employment was certain and success assured for those completing its courses.

PAR. 4. Respondent's correspondence courses in welding, refrigeration, and air-conditioning are intended to be completed within 10 to 12 months, although students may take a considerably longer period for completion of such courses if they wish to do so. The courses consist of instruction given by correspondence lessons in the theory of the particular course selected by the student, and upon satisfactory completion of the correspondence lessons the student may, at his option, receive 2 weeks' shop training at respondent's place of business in Chicago. The payment made for the courses includes provision for the student's bus fare to and from Chicago and for his room and board there during the 2-week period of shop training. Approximately 20 percent of those who enroll as students in respondent's correspondence courses actually complete the course for which they enroll. Respondent's correspondence course in welding, followed by such actual practice in welding as is provided by the 2 weeks' shop training, will not make an expert welder of a student who is without previous practical experience in welding. In order to be qualified as an expert welder, assuming the necessary aptitude, a long period of practical experience which encompasses working with various metals, with different types of welds, and with various techniques to meet differing requirements is necessary under actual working conditions. A person may, by adaptability and practical experience, become an expert welder without theoretical instruction, but theoretical instruction alone cannot make an expert welder in the absence of broad practical experience. Respondent's course does not provide the background of experience necessary to produce an expert welder. Similarly, graduates of respondent's refrigeration and air-conditioning courses are not experts in refrigeration or air-conditioning. Even if it be assumed that upon completion of respondent's courses, including the 2 weeks' shop training, a student is fully trained in the theory of the subjects, he is still not qualified to undertake upon his own respon-

sibility to install, repair, or service refrigeration and air-conditioning machinery and equipment. In order to be so qualified, a very considerable further practical experience under the supervision and direction of experienced men is necessary. Concerns engaged in installing, servicing, and maintaining refrigeration and air-conditioning equipment generally do not employ as a service man a workman who has not had considerable actual experience, and graduates of correspondence school courses such as respondent's, if employed by such concerns, are usually in the status of helpers or shop employees where they are supervised and directed until such time as they have acquired sufficient experience and demonstrated the ability necessary to qualify for the performance of repair and maintenance work without direct supervision.

FAR. 5. Respondent's representations concerning its correspondence courses in refrigeration and air-conditioning are calculated to, and do, lead to the belief on the part of prospective students that employment in the refrigeration and air-conditioning industry at the level indicated by respondent's advertisements is certain, with great opportunities for advancement—that success is assured. There representations are viewed in the light of conditions which existed during the years immediately preceding the issuance of the complaint herein and not under the abnormal conditions which have more recently existed as a result of the national preparedness program and active participation in war.

Refrigeration and air-conditioning maintenance and service is in part seasonal, particularly as to domestic installations. There was an increase in the number of such installations, both domestic and commercial, in the period of time under consideration, and a reasonable opportunity for employment has existed for expert maintenance and service men. Such employment, however, was not available to respondent's students or graduates. The record indicates, and the Commission finds, that there was little or no opportunity for respondent's students or graduates to find positions as service or maintenance men because of lack of qualifications as set out in the preceeding paragraph. In general, such employment as respondent's students or graduates might find in the refrigeration and air-conditioning industry was as helpers and shop employees pending such time as, by aptitude, experience, and further training acquired in the course of their employment, they might become qualified for and secure work of the types specified by respondents. "Splendid opportunities," as represented by respondent, signify a high probability of employment at the placement level indicated by respondent with

Order

37 F. T. C.

reasonable opportunity for substantial advancement. In general, the refrigeration and air-conditioning industry has not afforded this to men whose qualifications were limited to those secured through respondent's courses.

PAR. 6. The statements and representations made by respondent, as aforesaid, in connection with the offering for sale, sale, and distribution of its correspondence courses 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, because of such erroneous and mistaken belief, to purchase and pursue such courses of study and instruction.

CONCLUSION

The aforesaid acts and practices of respondent are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence in support of and in opposition to the allegations of the complaint taken before an examiner of the Commission theretofore duly designated by it, briefs filed herein, and the oral arguments of 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, Utilities Engineering Institute, 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 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 implication:

1. That individuals completing respondent's correspondence course in welding will thereby be qualified as expert welders.

2. That unusual or extraordinary opportunities for employment are open to individuals completing respondent's correspondence courses in refrigeration and/or air-conditioning, or that such individuals are assured of employment as service or maintenance men in the refrigeration and air-conditioning industry.

Order

3. That by completion of respondent's correspondence courses in refrigeration and/or air-conditioning individuals are thereby assured of employment, promotion, or success in such 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.

IN THE MATTER OF

MANHATTAN BREWING COMPANY

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

Docket 4572. Complaint, Aug. 20, 1941—Decision, Sept. 7, 1943

Where a corporation, engaged at Chicago in the brewing of ale and beer, including its "Canadian Ace Brand Beer" and "Canadian Ace Brand Ale," and for a time its "Old Wisconsin Lager Brand Beer," and in competitive interstate sale and distribution of its products to wholesalers and retailers, restaurants, taverns, and other purchasers—

- (a) Featured the word "Canadian" or the words "Canadian Ace" in extensively advertising said brand of beer and ale in point-of-sale advertising—supplied to retailer for display or distribution to the public, including menu covers and sheets, table display cards, place cards and coasters, paper table napkins, leaflets, booklets; and large show window placards—and also, to a limited extent, in radio advertising and in a trade journal, and featured said words likewise in labels on bottles or other containers in which its said beer was packaged and sold;

The facts being, its said products were not, as thus represented, imported Canadian brewed, preferred by a substantial portion of the purchasing public over such products brewed in the United States, particularly so in those states nearest Canada, but, like its other products, were brewed in Chicago; and inconsistent and contradictory legends "Made in U. S. A.," and in small type "Brewed and Bottled by Manhattan Brewing Co., Chicago, Illinois" later displayed on its labels and in some advertising, were incapable of explaining or qualifying word "Canadian" so as to prevent deception or confusion in the minds of the public; and

- (b) Falsely represented, through use of word "Wisconsin" as a part of one of its aforesaid brand names, that its Chicago-made product was a Wisconsin brewed beer, preferred by a substantial portion of the purchasing public over beers originating in other States; and
- (c) Falsely represented for a time that it was a Royal Warrant holder enjoying the patronage of the British Royal family or some member thereof, and therefore entitled to display the British Royal coat of arms on its products, through use, in connection with sale of its said Canadian Ace Brand Beer and Ale, of a crest simulating said royal coat of arms, and through displaying same also on the labels of the bottles involved;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public in aforesaid respects, and with result of causing it to purchase substantial quantities of products in question as a result of said erroneous belief; whereby trade was diverted unfairly to it from its competitors, many of whom did not use aforesaid practices and methods:

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

Before *Mr. John L. Hornor*, trial examiner.

Mr. DeWitt T. Puckett for the Commission.