

Syllabus

IN THE MATTER OF

EDWARD D. MILLER TRADING AS NATIONAL
TECHNICAL INSTITUTE

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

Docket 4789. Complaint, July 29, 1942—Decision, June 1, 1944

Where an individual engaged in the interstate sale and distribution of correspondence courses of instruction in diesel engineering, air conditioning, aeronautical engineering, electrical engineering and commercial training—

- (a) Represented through calls upon prospective students and their parents at their homes by him and his representatives, that the particular prospect had been especially recommended as a ranking high school graduate and was therefore being offered a scholarship as an "advertising student," under his policy of requiring such advertising student to recommend other students in lieu of other forms of advertising, and that such scholarship constituted a substantial reduction from the regular charge; the facts being that such representations were false, there was no special selection of students, nor any recommendations by high school principals or others for the so-called scholarship, which was the regular enrollment and did not carry any reduction in the tuition fee;
- (b) Represented that a substantial number of graduates had been employed in the respective industries at high salaries and that prospective students would have no difficulty in obtaining a lucrative position in any of them; the facts being that generally his graduates had not found such employment, and there had been no graduates of the aeronautical engineering course;
- (c) Represented that his plan of instruction differed from those of other similar schools in that, in addition to the lesson material mailed, a teacher who was thoroughly trained and qualified in the respective technical subjects would call upon the student at 30 day intervals, review the work done and generally explain and test the subjects being studied; the facts being the so-called instructors had no technical qualifications enabling them to render such service, but in fact acted as bill collectors to collect the required monthly installments;
- (d) Represented that the school maintained several buildings, substantial equipment and a large faculty of competent instructors, and that at the conclusion of the diesel engineering and air conditioning courses a student would receive five weeks shop training at one of the best schools in Chicago, and that students of the aeronautical engineering course would receive such training at an aeronautical school which would also give instruction in actual flying; the facts being there had been no graduates, as aforesaid noted, of said last course, and said individual was the sole operator of the business concerned; and
- (e) Represented through use of the words "National Diesel Institute" and "National Technical Institute," that the business consisted of a group of engineers in the diesel or other technical industries, instituted to consider their problems from a scientific and technical standpoint, to further the industries concerned and their welfare generally, and to conduct research and experiments therein; the fact being his business was a correspondence school organized and operated solely for his financial profit, he maintained no resident school, laboratory, library or any equipment whatever to conduct a school, and representations made as above set out were otherwise false;

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With tendency and capacity to mislead purchasers and prospective purchasers into the mistaken belief that such representations were true and thereby induce them to purchase and pursue said courses:

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.

Mr. William L. Pencke for the Commission.

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 Edward D. Miller, an individual, trading as National Technical 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, Edward D. Miller, is an individual, who, as sole proprietor, has been trading under the firm name and style of National Technical Institute for the past two years and who prior thereto traded under the firm name of National Diesel Institute, with his principal office and place of business at 111 Sylvan Street, city of Virginia, State of Illinois.

PAR. 2. Respondent is now, and for more than two years last past has been, engaged in the sale and distribution of correspondence courses of instruction in diesel engineering, air conditioning, aeronautical engineering, electrical engineering and commercial training to student purchasers 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 his business, and in connection with the sale and distribution of his correspondence courses, respondent transports or causes the transportation of printed copies of lessons, examination questions and various other documents from his 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.

PAR. 3. Respondent, in soliciting the sale of and in selling his said courses of study and instruction in commerce as herein described, has made numerous false, deceptive and misleading representations and statements personally and through his representatives engaged in the sale of said courses, as hereinafter more fully set out.

PAR. 4. In the course and conduct of his business respondent obtains the names of prospective students through high school principals or other local sources. Respondent and his sales representatives call upon said students and their parents at their respective residences and induce the purchase of said courses of study and instruction by making numerous representations which are to the effect that the student has been especially recommended as a ranking high school graduate and that because of such recommendation the respondent is offering him a scholarship as an "advertising student"; that it is the policy of respondent to require such advertising students to recommend other students for such

courses of study and instruction and that this practice is being followed in lieu, and to save the expense, of any other form of advertising; that such scholarship constitutes a substantial reduction from the price regularly charged by the respondent school; that a substantial number of graduates have been employed in the respective industries at high salaries and that the prospective student will have no difficulty in obtaining a lucrative position in any of said industries; that the plan of instruction differs from those of other correspondence schools in that, in addition to the lesson material mailed to the student, a teacher thoroughly trained and qualified in the respective technical subjects will call upon such student in person at 30-day intervals, review the work done, go over the lesson material and generally explain and teach the subjects being studied; that the school maintains several buildings, substantial equipment and a large faculty of competent instructors at its place of business in Virginia, Illinois; that at the conclusion of the diesel engineering and air conditioning courses, a student will receive five weeks shop training at one of the best schools of training in Chicago, Illinois; and that students of the aeronautical engineering course will receive shop training at an aeronautical school which also will give students instruction in actual flying.

PAR. 5. In truth and in fact said representations and statements are grossly exaggerated, false and misleading. Students are not especially selected, but on the contrary the course is offered to all students who are solicited by respondent or his agents and the so-called scholarship is the regular enrollment and does not carry with it any reduction in the tuition fee, said tuition fee being the same to all students and being in fact the regular price of the course. Generally respondent's graduates have not found lucrative employment in any of the industries. In truth and in fact there have been no graduates of the aeronautical engineering course. Respondent is the sole operator of said business, which is located at his residence in Virginia, Illinois. There are no buildings or any other equipment required for the teaching of the several courses offered by him and there is no faculty whatever qualified to teach any of said courses. The so-called instructors who call upon students who have enrolled for any of said courses have no technical qualifications enabling them to teach or review any of the subjects of study and are in fact acting as bill collectors to collect the monthly installments required to be paid by said students under the enrollment contract. Neither high school principals or any other person has recommended any prospective students for respondent's so-called scholarships.

PAR. 6. By using the words "National Diesel Institute" and "National Technical Institute" in his trade names, respondent falsely represents or implies that his business consists of a group or organization of engineers in the diesel or other technical industries instituted for the purpose of considering the problems of said industries from a scientific and technical standpoint and to further and promote the industries and the welfare of such industries generally and to conduct research and experiments in said respective industries.

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 diesel engineering, air conditioning, aeronautical engineering, electrical engineering and commercial training solely for the financial profit of respondent. Respondent maintains no residence school, has no laboratory or library or any equipment whatever to conduct a

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school, to pursue research work or to make any scientific or technical investigations and has no faculty or any personnel whatever with technical training or any knowledge of even the fundamental principles of the science of engineering.

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 29, 1942, issued and subsequently served its complaint in this proceeding upon respondent, Edward D. Miller, an individual, trading as National Technical Institute (formerly National Diesel Institute), charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On May 5, 1943, respondent filed his answer, in which answer he admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint and the answer thereto; 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, Edward D. Miller, is an individual, trading under the firm name and style of National Technical Institute, with his principal office and place of business at 111 Sylvan Street, Virginia, Ill. He formerly traded under the firm name of National Diesel Institute.

PAR. 2. Respondent is now, and for more than two years last past has been, engaged in the sale and distribution of correspondence courses of instruction in diesel engineering, air-conditioning, aeronautical engineering, electrical engineering, and commercial training to student purchasers located in the various States of the United States other than the State of Illinois and in the District of Columbia. In connection with the sale and distribution of his correspondence courses, respondent transports or causes the transportation of printed copies of lessons, examination questions, and various other documents from his 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.

PAR. 3. Respondent, in soliciting the sale of and in selling his said courses of study and instruction in commerce as herein described, has

made numerous false, deceptive, and misleading representations and statements personally and through his representatives engaged in the sale of said courses, as hereinafter more fully set out.

PAR. 4. In the course and conduct of his business respondent obtains the names of prospective students through high school principals or other local sources. By means of personal calls upon said students and their parents at their respective residences, respondent and his sales representatives have induced the purchase of said courses of study and instruction by making numerous representations to the effect that the student had been especially recommended as a ranking high school graduate and that because of such recommendation the respondent was offering him a scholarship as an "advertising student"; that it was the policy of respondent to require such advertising students to recommend other students for such courses of study and instruction, and that this practice is followed in lieu of and to save the expense of any other form of advertising; that such scholarship constitutes a substantial reduction from the price regularly charged by respondent; that a substantial number of graduates have been employed in the respective industries at high salaries and that the prospective student will have no difficulty in obtaining a lucrative position in any of said industries; that the plan of instruction differs from those of other correspondence schools in that, in addition to the lesson material mailed to the student, a teacher thoroughly trained and qualified in the respective technical subjects will call upon such student in person at 30-day intervals, review the work done, go over the lesson material, and generally explain and teach the subjects being studied; that the school maintains several buildings, substantial equipment, and a large faculty of competent instructors at its place of business in Virginia, Illinois; that at the conclusion of the diesel engineering and air-conditioning courses a student will receive five weeks' shop training at one of the best schools of training in Chicago, Illinois; and that students of the aeronautical engineering course will receive shop training at an aeronautical school which also will give students instruction in actual flying.

PAR. 5. In truth and in fact, said representations and statements are grossly exaggerated, false, and misleading. Students are not especially selected but, on the contrary, the course is offered to all students solicited by respondent or his agents, and the so-called scholarship is the regular enrollment and does not carry with it any reduction in the tuition fee, said tuition fee being the same to all students and, in fact, the regular price of the course. Generally, respondent's graduates have not found lucrative employment in any of the industries. In truth and in fact, there have been no graduates of the aeronautical engineering course. Respondent is the sole operator of said business, located at his residence in Virginia, Illinois. There are no buildings or any other equipment required for the teaching of the several courses offered by him and no faculty whatever qualified to teach any of said courses. The so-called instructors who call upon students enrolled for any of said courses have no technical qualifications enabling them to teach or review any of the subjects of study and, in fact, act as bill collectors to collect the monthly installments required to be paid by said students under the enrollment contract. Neither high school principals nor any other person has recommended any prospective students for respondent's so-called scholarships.

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PAR. 6. By using the words "National Diesel Institute" and "National Technical Institute" in his trade names, respondent falsely represents and implies that his business consists of a group or organization of engineers in the diesel or other technical industries instituted for the purpose of considering the problems of said industries from a scientific and technical standpoint, and to further and promote the industries and the welfare of such industries generally, and to conduct research and experiments in said respective industries.

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 diesel engineering, air-conditioning, aeronautical engineering, electrical engineering, and commercial training solely for the financial profit of respondent. Respondent maintains no residence school, has no laboratory or library or any equipment whatever to conduct a school, does not pursue research work or make any scientific or technical investigations, and has no faculty or any personnel whatever with technical training or any knowledge of even the fundamental principles of the science of engineering.

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, has had, and has, 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.

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 and the answer of respondent, in which answer respondent admits all of the material allegations of fact set forth in said complaint and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Edward D. Miller, an individual, trading as National Technical Institute, or under any other name, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of courses of instruction in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing to prospective students that they have been especially selected; or representing to such students that they have been recommended to respondent by their high school principal or other persons, unless such recommendations have actually been made.

2. Representing, by means of so-called scholarships or otherwise, that the usual and customary tuition fee is a special or reduced price.

3. Representing that graduates of respondent's courses have usually or generally obtained lucrative employment in the particular field in which instruction has been received from respondent; or that respondent's training assures one of such employment.

4. Representing that respondent's school occupies any building or buildings larger than it in fact occupies; or owns, maintains, or uses any equipment or material in excess of that actually owned, maintained, or used.

5. Representing that respondent maintains or employs a faculty of engineers or teachers qualified to give instruction in the subjects of diesel engineering, air-conditioning, aeronautical engineering, electrical engineering, or commercial training.

6. Representing that instructors will call upon students at any time or times to teach, assist, or review the work of such students, unless this is in fact done by qualified instructors having the necessary technical qualifications.

7. Using the term "Institute" as part of the name under which respondent's business of selling courses of instruction is conducted, or using the term "Institute" in any manner to designate, describe, or refer to respondent's business.

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

IN THE MATTER OF

M. G. NEUMAN, DOING BUSINESS AS VALMOR
PRODUCTS COMPANY, ETC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4866. Complaint, Nov. 3, 1942—Decision, June 1, 1944*

A contention that the institution of the instant proceeding was unwarranted because respondent's products and the claims with respect thereto were considered by the Commission in connection with the execution of a stipulation to cease and desist and a subsequent supplement thereto, was untenable where it appeared that the stipulation provided that in the event of violation of its provisions, the facts admitted might be used in evidence in the trial of a complaint with respect thereto and the supplement was accepted without prejudice to the right of the Commission to issue complaint at any time it deemed such action warranted, and respondent subsequently violated the terms of the stipulation.

Where an individual engaged in interstate sale and distribution of a large number of medicinal preparations, cosmetics and other articles—

- (a) Falsely represented through statements and depictions in catalogs, newspapers and periodicals, circulars, leaflets and other advertising literature that his "Sweet Georgia Brown Lemon Fragrance Cleansing Cream" was effective in producing a light complexion and clearing up dark complexions, that his "Brown Skin Beauty Skin Brightener" would lighten the skin and make it look brighter and clearer, that his "Brown Skin Beauty Lemon Fragrance Vanishing Cream" would prevent greasy skin, and that his "Sweet Georgia Brown Sleeping Beauty Night Cream" had a stimulating effect upon the skin;
 - (b) Falsely represented as aforesaid that his "Valmor" hair tonic would act as such for scalp and hair, promote growth of latter and prevent loss thereof, and that his "Valmor Walk Easy Foot Powder" would relieve tired aching feet;
 - (c) Represented that his "Valmor Little Blue Pills with Buchu" product was a kidney stimulant and of value in the treatment of lazy kidneys, was effective in relieving backache due to bladder irritation and pains in the back, broken sleep, and leg pains caused by ailing kidneys, that acids and poisons get into the blood because of improper functioning of the kidneys, and that the product would remove such poisons and acids from the blood;
- The facts being that it was an irritant diuretic and cathartic which would merely increase the burden on the kidneys, since it must be removed from the system; and it was without therapeutic value and would not accomplish results claimed;
- (d) Falsely represented that his "Brother Johnson's American Oil Haarlem Capsules" preparation would flush out the kidneys and constituted an adequate treatment for broken sleep, burning bladder flow, getting up nights, and other symptoms caused by inactive kidneys; the facts being there are diseased kidneys and normal kidneys, but no such thing as sluggish kidneys; and product concerned was an irritant diuretic which would tend to increase rather than relieve burning bladder flow and would not accomplish the other results claimed therefor;
 - (e) Represented that his "Old Indian System Tonic" was a general tonic and would exert a general tonic effect upon the system, that inactive bowels cause formation of poisons which attack the body, causing weakness, run-down condition and fatigue, and that said preparation would remove such poisons and effectively relieve