

Order

IN THE MATTER OF
UNIVERSAL INDUSTRIES, INC., ET AL.

MODIFIED CEASE AND DESIST ORDER

Docket 3882. Order, August 16, 1944

Modified order in proceeding in question, in which original order issued on April 24, 1941, 32 F.T.C. 1270, requiring respondents, their officers, representatives, etc., in connection with the offer, etc., in commerce, of sales stimulator plans, or devices, including trade cards, circulars, and other advertising material, and tableware and other products used as premium merchandise in connection with the operation of any sales stimulator plan, to cease and desist from misrepresenting their financial condition, business history, price, value of products, and salesmen's earnings, and goods offered as compensation for service, as free or when not free, and misrepresenting the cost of the plan to the purchaser through failing to reveal additional payment required, as in said order specified.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents, testimony and other evidence taken before Miles J. Furnas, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, and report of the trial examiner thereon, and briefs filed herein, and the Commission having duly made and issued its findings as to the facts, conclusion and order to cease and desist dated April 24, 1941; and the Commission having further considered said order to cease and desist heretofore issued, and being of the opinion that the public interest requires that a modified order to cease and desist should be issued in said cause; and the Commission having given due notice to the respondents to show cause on July 24, 1944, why this case should not be reopened for the purpose of modifying said order to cease and desist; and the Commission having considered the matter and the record herein, and having issued its order modifying said order in certain respects, issues this its modified order to cease and desist.

It is ordered, That the respondent Universal Industries, Inc., a corporation, its officers, representatives, agents, and employees, the respondent, Abraham Leonard Koolish, an individual, and respondent George William Ehrlich, an individual, and their respective representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of sales stimulator plans or devices, including trade cards, circulars, and other advertising material, and tableware and other products used as premium merchandise in connection with the operation of any sales stimulator plan, do forthwith cease and desist from:

1. Misrepresenting, in any manner, the financial condition and assets of respondents' business or the length of time in which said respondents have been engaged in business.

2. Representing as customary or regular prices or values for any of respondents' products, prices or values which are, in fact, fictitious or greatly in excess of the prices at which such products are customarily offered for sale and sold in the normal course of business.

3. Representing any specified sum of money as possible earnings or profits of agents, salesmen, representatives, or distributors for any stated period of time which is not a true representation of the net earnings or profits which have been made for such stated period of time by a substantial number of respondents' active agents, salesmen, representatives, or distributors in the ordinary course of business under normal conditions and circumstances.

4. Representing any specified sum of money as earnings or profits of any specified agent, salesman, representative, or distributor for any stated period of time which has not, in fact, been consistently earned, net, by such agent, salesman, representative, or distributor in the ordinary course of business and under normal conditions and circumstances.

5. Using the term "free," or any other term of similar import or meaning, to describe or refer to articles offered as compensation for distributing respondents' merchandise.

6. Misrepresenting the cost of any sales plan or sales stimulator to any dealer or merchant by failing to reveal that additional sums of money must be paid by such dealer or merchant in the operation of such sales plan or the use of such sales stimulator.

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

Syllabus

IN THE MATTER OF
THOMAS J. CASEYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4586. Complaint, Sept. 8, 1941—Decision, Aug. 16, 1944*

Where an individual engaged in the competitive interstate sale and distribution of correspondence courses of study and instruction in electronics, photocells, television and radio; through sales representatives and through printed matter distributed among prospective students, enrolled students, and others—

- (a) Represented that the school conducted by him was both a resident and correspondence school and a large organization composed of various divisions and departments, and that he operated a powerful short-wave radio station as part of the operating equipment of the school;

The facts being he was engaged solely in conducting a correspondence school with limited personnel; it was not an extensive organization but occupied only a small portion of one floor of the building concerned; and while he did own the equipment of a certain radio station located in his offices and operated by another, it was not used for any purpose connected with his school; and

- (b) Represented that he maintained a staff of field engineers who called upon students at frequent intervals to give them instruction and assistance; that in connection with his courses he furnished home laboratory equipment, including a complete short-wave transmitting and receiving set of the value of several hundred dollars which was included in the cost of tuition; and that he would establish numerous short-wave broadcasting stations throughout the various states and establish such a station in the near vicinity of the prospective student for assistance in training him;

The facts being that the true function of his so-called "field engineers" and "field instructors" who called on students at irregular intervals, ostensibly to assist them in their study, was to renew the students' interest in the course and induce payment of delinquent accounts; laboratory equipment furnished by him consisted of tools, tubes, condensers and other material for the purpose of experimenting in radio operation and construction, and was not of the value of several hundred dollars, but of approximately \$50.00; and he had not established and did not establish any such short-wave broadcasting stations for the assistance of his students;

- (c) Represented that persons completing his courses of study would be fully qualified as electrical engineers or as electronic engineers; that he selected only a limited number of applicants in each community for his courses; and that persons lacking in education, experience or aptitude could become competent and expert electrical or electronic engineers by taking the same;

The facts being that the instruction offered by him was not a complete course in electronic or electrical engineering, and would not qualify a person as such engineers, as he did not teach higher mathematics or physics—subjects which could not be taught with sufficient success by correspondence to qualify a person as aforesaid; and applicants solicited and selected by him were not limited but included all available prospects, who were solicited and accepted, including persons who had not completed high school, on the representation that his courses would qualify