

IN THE MATTER OF
BUREAU OF ENGRAVING, INC., AND ART
INSTRUCTION, INC.

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

Docket 4914. Complaint, Feb. 15, 1943—Decision, Sept. 18, 1944

Where a corporation, subsidiary of a commercial printing and engraving concern, engaged in the conduct of a correspondence school and in the competitive interstate sale and distribution of correspondence courses in commercial designing, illustrating and cartooning, soliciting purchasers therefor through the mails and through agents or so-called "registrars" who called upon prospective students and their parents and guardians and whom it supplied with sales literature—

- (a) Falsely represented or implied that competing resident art schools or institutes did not have competent instructors and the requisite facilities for the teaching of the aforesaid subjects, and that its correspondence courses of instruction therein were of greater benefit to the student than similar courses offered by said resident schools, through such statements of their "Registrars" to prospects as " * * * there are very few resident or local art institutes having an educational division wholly comprised of men and women of ability, judgment, poise, balance, discrimination and experience as teachers. Too many of them are extremists, faddists, and poseurs who permit and encourage the perpetration of abominations and perversities in the name of art. . . ." and "There are a few—VERY FEW—Art Institutes in the country that have facilities for the teaching of commercial designing and illustrating. I do not know of one art institute that has really excellent facilities nor a thoroughly competent, practical, experienced professional body of educators";
- (b) Made use of undated testimonials or excerpts therefrom in catalogues and other advertising matter, as descriptive of its said courses, representing or implying thereby that such testimonials were recently executed by their authors, when in fact many of them were procured more than 15 years prior to said use thereof; and
- (c) Made use of fictitious trade name "Metropolitan Collection Bureau" for the purpose of collecting delinquent accounts, falsely representing thereby that said Metropolitan Collection Bureau was an independent and separate organization employed to collect accounts which were in arrears; when in fact said agency was operated solely by said concerns and used by them to coerce and intimidate purchasers of said courses and to compel them to pay therefor, though purchased as a result of the mistaken belief engendered by aforesaid deceptive practices;

With tendency and capacity to mislead and deceive members of the purchasing public into the mistaken belief that said representations were true, whereby trade was unfairly diverted to them from their competitors in commerce:

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

Mr. William L. Pencke for the Commission.

Mr. John A. Bresnahan, of Washington, D. C., for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, having reason to believe that Bureau of Engraving, Inc., a corporation, and Art Instruction, Inc., (formerly known as Federal Schools, Inc.) a corporation, hereinafter referred to as respondents, have 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. Respondents, Bureau of Engraving, Inc., and Art Instruction, Inc., are corporations organized and existing under and by virtue of the laws of the State of Minnesota, each having its principal office and place of business located at 500 South Fourth Street, Minneapolis, Minn. Respondent Art Instruction, Inc., formerly bore the name Federal Schools, Inc. Respondent Bureau of Engraving, Inc., is now, and for more than five years last past has been, engaged in the business of commercial printing and engraving of all types of advertising matter, and in the sale and distribution thereof to purchasers located in the various States of the United States other than the State of Minnesota, and in the District of Columbia. It causes and has caused said printed and engraved products, when sold, to be shipped or transported from the State of Minnesota to purchasers thereof located in the various States of the United States other than the State of Minnesota and in the District of Columbia.

In the course and conduct of said business respondent, Bureau of Engraving, Inc., is now, and at all times herein referred to, has been in substantial competition with other corporations and with partnerships and individuals engaged in the sale and distribution of like or similar products in commerce among and between the various States of the United States.

Respondent, Art Instruction, Inc., is a subsidiary of and was organized by respondent, Bureau of Engraving, Inc., which owns all of the stock of Art Instruction, Inc., with the exception of four shares, one each being owned by the four officers of Art Instruction, Inc., who are also officers of Bureau of Engraving, Inc. Respondent, Bureau of Engraving, Inc., dominates, controls and directs all of the acts, practices and policies of respondent, Art Instruction, Inc., and said respondents act together and have acted together and in cooperation with each other in doing the acts and things hereinafter alleged.

Respondent, Art Instruction, Inc., is now, and for more than five years last past has been, engaged in the business of conducting a correspondence school and in the sale and distribution of correspondence courses consisting of instructions in commercial designing, illustrating and cartooning in commerce between and among the various States of the United States and in the District of Columbia. In the sale of such correspondence courses of instruction the respondent, Art Instruction, Inc., has, for more than five years last past, maintained a course of trade in commerce between and among the various States of the United States.

In the course and conduct of its said business, respondent, Art Instruction, Inc., is and has been in substantial competition with other corporations, partnerships and individuals engaged in the sale and distribution of correspondence courses in commercial designing, illustrating and cartoon-

ing in commerce between and among the various States of the United States and in the District of Columbia. In connection with the sale and distribution of its said correspondence courses, respondent, Art Instruction, Inc., transports or causes to be transported from its aforesaid place of business in the State of Minnesota to the purchasers thereof located in the various States of the United States other than the State of Minnesota and in the District of Columbia, printed copies of its lessons, examination questions and other pamphlets, documents and equipment used in connection with said courses.

PAR. 2. In the course and conduct of its said business respondent, Art Instruction, Inc., solicits purchasers for said courses of instructions by means of the United States mails and through agents designated as "Registrars," who personally call upon prospective students and their parents and guardians located throughout the United States and in the District of Columbia and induce many of said students to enroll as students, and to purchase, receive and agree to pay for said courses of instruction. For the purpose of promoting and increasing the sales of such courses, respondent, Art Instruction, Inc., furnishes and has furnished such "Registrars" with sales literature containing various false, deceptive, misleading and disparaging statements and representations concerning art courses of instruction offered or given by competing resident art schools or institutes. Among and typical of such statements and representations are the following:

* * * there are very few resident or local art institutes having an educational division wholly comprised of men and women of ability, judgment, poise, balance, discrimination and experience, as teachers. Too many of them are extremists, faddists, and poseurs who permit and encourage the perpetration of abominations and perversities in the name of art. That of course is a very serious thing. There's nothing funny or humorous about it.

* * *

There are a few—VERY FEW—Art Institutes in the country that have facilities for the teaching of commercial designing and illustrating. I do not know of one art institute that has really excellent facilities nor a thoroughly competent, practical, experienced professional body of educators.

There are many magnificent and wonderful and marvelous landscape artists, in America who are among the finest in the world, but they have little influence in the modern art institute, unfortunately, where the training of the youth of the country is entrusted to the young and immature men who in many instances are full of ego and isms.

Said statements and representation have been and are being made orally to prospective customers by said "Registrars" in connection with the sale and distribution of said courses of instruction.

Through the use of such statements as aforesaid, and others of similar import not herein set forth, respondent, Art Instruction, Inc., has represented or implied and represents and implies, (1) that competing resident art schools or institutes do not have competent instructors; (2) that competing resident art schools or institutes do not have the required facilities for the teaching of commercial designing, cartooning and illustrating; and (3) that said correspondence courses of instruction in commercial designing, illustrating and cartooning offered for sale and sold by respondent, Art

Instruction, Inc., are of greater benefit to the student than similar courses offered by said resident art schools or institutes.

PAR. 3. In truth and in fact, there are numerous resident art schools that have well trained and competent instructors. There are numerous resident art schools or institutes that have the required facilities for the teaching of commercial designing, illustrating and cartooning and said correspondence courses of instruction are not of greater benefit to the student than similar courses of instruction given by said resident art schools or institutes.

PAR. 4. Respondent, Art Instruction, Inc., further, in soliciting the sale of and in selling and distributing said courses, and for the purpose of inducing the purchase thereof, has distributed or caused to be distributed in said commerce by means of and through the United States mails, catalogs and other advertising matter containing undated testimonials or excerpts therefrom as being descriptive of the said courses being offered for sale and sold by respondent, Art Instruction, Inc., at the time of the circulation of such catalogs and other advertising matter.

By the use of such undated testimonials respondent, Art Instruction, Inc., has represented or implied that the same were recently executed by the authors thereof. In truth and in fact, many of said testimonials were procured more than fifteen years prior to the issuance of said catalogs and other advertising matter.

PAR. 5. In the course and conduct of said business, respondent, Bureau of Engraving, Inc., causes and has caused its name, Bureau of Engraving, Inc., to appear on its stationery, catalogs and other advertising literature. By and through the use of the words "Bureau of Engraving" in its said name, respondent, Bureau of Engraving, Inc., has represented or implied that it has some connection or affiliation with the Bureau of Engraving and Printing, a branch or bureau of the United States Government.

In truth and in fact, said respondent Bureau of Engraving, Inc., has no connection or affiliation with any branch or bureau of the United States Government.

PAR. 6. In the course and conduct of its business, respondent, Art Instruction, Inc., has adopted and uses a fictitious trade name, to wit; Metropolitan Collection Bureau, for the purpose of collecting delinquent accounts, thereby falsely representing that said Metropolitan Collection Bureau is an independent and separate organization employed to collect accounts which are in arrears.

In truth and in fact, said fictitious collection agency is operated solely by the respondents and used by the respondents to coerce and intimidate purchasers of said courses of instruction and to compel them to pay for said courses, though purchased as a result of the mistaken belief engendered by respondents' deceptive practices as herein alleged.

PAR. 7. The aforesaid acts and practices of the respondent, as herein set forth, have the tendency and capacity to mislead and deceive members of the purchasing public into the mistaken and erroneous belief that the representations made by the respondents are true and into the further mistaken and erroneous belief that the respondent, Bureau of Engraving, Inc., is a part of or is affiliated with the United States Government in some capacity and into the purchase of correspondence courses offered for sale by the respondent, Art Instruction, Inc., as the result of such erroneous

and mistaken beliefs. As a result thereof, trade has been unfairly diverted to the respondents from their competitors in commerce among and between the various States of the United States.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and of respondents' 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 the 15th day of February, 1943, issued, and on the 17th day of February, 1943, served its complaint in this proceeding upon the respondents, Bureau of Engraving, Inc., and Art Instruction, Inc., charging them with the use of unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondents' answer the Commission, by order entered herein, granted respondents' motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint with the exception of the allegations contained in paragraph 5 of said complaint and paragraph 7 insofar as it deals with allegations in respect of the respondent, Bureau of Engraving, Inc., which substitute answer was duly filed in the office of the Commission, and respondents waived all intervening procedure and further hearing as to said facts. Thereafter this proceeding regularly came on for final hearing before the Commission on the said complaint and substitute answer 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. Respondents, Bureau of Engraving, Inc., and Art Instruction, Inc., are corporations, organized and existing under and by virtue of the laws of the State of Minnesota, each having its principal office and place of business located at 500 South Fourth Street, Minneapolis, Minn. Respondent, Art Instruction, Inc., formerly bore the name Federal Schools, Inc. Respondent, Bureau of Engraving, Inc., is now, and for more than five years last past has been, engaged in the business of commercial printing and engraving of all types of advertising matter, and in the sale and distribution thereof to purchasers located in the various States of the United States other than the State of Minnesota, and in the District of Columbia. It causes and has caused said printed and engraved products, when sold, to be shipped or transported from the State of Minnesota to purchasers thereof located in the various States of the United States other than the State of Minnesota and in the District of Columbia.

Respondent, Art Instruction, Inc., is a subsidiary of and was organized by respondent, Bureau of Engraving, Inc., which owns all of the stock of Art Instruction, Inc., with the exception of four shares, one each being owned by the four officers of Art Instruction, Inc., who are also officers of Bureau of Engraving, Inc. Respondent, Bureau of Engraving, Inc., dominates, controls and directs all of the acts, practices and policies of respondent, Art Instruction, Inc., and said respondents act together and have acted together and in cooperation with each other in doing the acts and things hereinafter alleged.

Respondent, Art Instruction, Inc., is now, and for more than five years last past has been, engaged in the business of conducting a correspondence school and in the sale and distribution of correspondence courses consisting of instructions in commercial designing, illustrating and cartooning in commerce between and among the various States of the United States and in the District of Columbia. In the sale of such correspondence courses of instruction the respondent, Art Instruction, Inc., has, for more than five years last past, maintained a course of trade in commerce between and among the various States of the United States.

In the course and conduct of its said business, respondent, Art Instruction, Inc., is and has been in substantial competition with other corporations, partnerships and individuals engaged in the sale and distribution of correspondence courses in commercial designing, illustrating and cartooning in commerce between and among the various States of the United States and in the District of Columbia. In connection with the sale and distribution of its said correspondence courses, respondent, Art Instruction, Inc., transports or causes to be transported from its aforesaid place of business in the State of Minnesota to the purchasers thereof located in the various States of the United States other than the State of Minnesota and in the District of Columbia, printed copies of its lessons, examination questions and other pamphlets, documents and equipment used in connection with said courses.

PAR. 2. In the course and conduct of its said business respondent, Art Instruction, Inc., solicits purchasers for said courses of instructions by means of the United States mails and through agents designated as "Registrars," who personally call upon prospective students and their parents and guardians located throughout the United States and in the District of Columbia and induce many of said students to enroll as students, and to purchase, receive and agree to pay for said courses of instruction. For the purpose of promoting and increasing the sales of such courses, respondent, Art Instruction, Inc., furnished such "Registrars" with sales literature containing various false, deceptive, misleading and disparaging statements and representations concerning art courses of instruction offered or given by competing resident art schools or institutes. Among and typical of such statements and representations were the following:

* * * there are very few resident or local art institutes having an educational division wholly comprised of men and women of ability, judgment, poise, balance, discrimination and experience, as teachers. Too many of them are extremists, faddists, and poseurs who permit and encourage the perpetration of abominations and perversities in the name of art. That of course is a very serious thing. There's nothing funny or humorous about it.

There are a few—VERY FEW—Art Institutes in the country that have facilities for the teaching of commercial designing and illustrating. I do not know of one art institute that has really excellent facilities nor a thoroughly competent, practical, experienced professional body of educators.

There are many magnificent and wonderful and marvelous landscape artists, in America who are among the finest in the world, but they have little influence in the modern art institute, unfortunately, where the training of the youth of the country is entrusted to the young and immature men who in many instances are full of ego and isms.

Said statements and representations had been made orally to prospective customers by said "Registrars" in connection with the sale and distribution of said courses of instruction.

Through the use of such statements as aforesaid, and others of similar import not herein set forth, respondent, Art Instruction, Inc., has represented or implied (1) that competing resident art schools or institutes do not have competent instructors; (2) that competing resident art schools or institutes do not have the required facilities for the teaching of commercial designing, cartooning and illustrating; and (3) that said correspondence courses of instruction in commercial designing, illustrating and cartooning offered for sale and sold by respondent, Art Instruction, Inc., are of greater benefit to the student than similar courses offered by said resident art schools or institutes.

PAR. 3. In truth and in fact, there are numerous resident art schools that have well trained and competent instructors. There are numerous resident art schools or institutes that have the required facilities for the teaching of commercial designing, illustrating and cartooning and said correspondence courses of instruction are not of greater benefit to the student than similar courses of instruction given by said resident art schools or institutes.

PAR. 4. Respondent, Art Instruction, Inc., further, in soliciting the sale of and in selling and distributing said courses, and for the purpose of inducing the purchase thereof, had distributed or caused to be distributed in said commerce by means of and through the United States mails, catalogs and other advertising matter containing undated testimonials or excerpts therefrom as being descriptive of the said courses being offered for sale and sold by respondent, Art Instruction, Inc., at the time of the circulation of such catalogs and other advertising matter.

By the use of such undated testimonials respondent, Art Instruction, Inc., has represented or implied that the same were recently executed by the authors thereof. In truth and in fact, many of said testimonials were procured more than fifteen years prior to the issuance of said catalogs and other advertising matter.

PAR. 5. In the course and conduct of its business, respondent, Art Instruction, Inc., had adopted and used a fictitious trade name, to wit, Metropolitan Collection Bureau, for the purpose of collecting delinquent accounts, thereby falsely representing that said Metropolitan Collection Bureau is an independent and separate organization employed to collect accounts which are in arrears.

In truth and in fact, said fictitious collection agency was operated solely by the respondents and used by the respondents to coerce and intimidate

purchasers of said courses of instruction and to compel them to pay for said courses, though purchased as a result of the mistaken belief engendered by respondents' deceptive practices, as herein alleged.

PAR. 6. The aforesaid acts and practices of the respondents, as herein set forth, had the tendency and capacity to mislead and deceive members of the purchasing public into the mistaken and erroneous belief that the representations made by the respondents were true. As a result thereof, trade has been unfairly diverted to the respondents from their competitors in commerce among and between the various States of the United States.

CONCLUSION

The aforesaid acts and practices of respondents, as hereinafter found, were all to the prejudice and injury of the public and of respondents' competitors and constituted 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 and the answer of respondents in which answer respondents admit all the material allegations of fact set forth in said complaint, with the exception of the allegations pertaining to the use of the words "Bureau of Engraving" in the corporate name of respondent, Bureau of Engraving, Inc., and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Bureau of Engraving, Inc., a corporation, and Art Instruction, Inc., a corporation, their respective 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 in commercial art in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing or implying that competing resident art schools do not have competent instructors, or required facilities for the teaching of commercial designing, cartooning and illustrating; or that respondents' correspondence courses in said subjects are of greater value or benefit than similar courses offered by resident schools.

2. The use of undated testimonial letters in their catalogs and other advertising literature.

3. The use of fictitious trade names for the purpose of collecting delinquent accounts, or representing or implying that any collection agency is an independent and separate organization when it is in fact owned, operated or controlled by respondents.

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.

IN THE MATTER OF

WILLIAM M. IRVINE, TRADING AS CONSOLIDATED
SILVER COMPANY OF AMERICA

MODIFIED CEASE AND DESIST ORDER

Docket 3789. Order, September 23, 1944

Modified order, in proceeding in question—in which original order issued on March 29, 1940, 30 F. T. C. 866—requiring respondent, his representatives, etc., in connection with offer, etc., in commerce, of silverware or of sales promotional plans, including sales cards, gift cards, premium certificates or coupons redeemable in silverware or other articles of merchandise, to cease and desist from misrepresenting his connections and arrangements with others, goods as free, refunds, terms and conditions, and undertakings in general, as in said order specified.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having heretofore been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before Webster Ballinger, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, and brief on behalf of the Commission in support of the complaint (respondent not having filed brief and oral argument not having been requested), and the Commission having duly made and issued its findings as to the facts, conclusion and order to cease and desist dated March 29, 1940; and the Commission having further considered said order to cease and desist and having given due notice to the respondent to show cause why the proceeding should not be reopened for the purpose of modifying said order in the respects and to the extent set out in said notice, and the respondent having indicated in writing his intention not to oppose such modification; and the Commission having considered the matter and the record herein, and having concluded that the public interest requires the modification of said order in the respects and to the extent set out in said notice.

It is ordered, That the respondent, William M. Irvine, trading as Consolidated Silver Co. of America, or trading 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 in commerce, as "commerce" is defined in the Federal Trade Commission Act, of silverware or of sales promotional plans, including sales cards, gift cards, premium certificates or coupons redeemable in silverware or other articles of merchandise, do forthwith cease and desist from:

1. Representing that the respondent is a representative of, or has any connection with, the manufacturer of Wm. A. Rogers silverware; *provided, however, that this order shall not be construed to prohibit the respondent from dealing in such silverware.*

2. Representing that the respondent is conducting any special campaign or advertising campaign to introduce or advertise any article of mer-