

Syllabus

IN THE MATTER OF
WEBSTER UNIVERSITYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF
SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 5171. Complaint, June 2, 1944—Decision, Mar. 6, 1945*

Where a corporation engaged in the competitive interstate sale and distribution of correspondence courses of study and instruction with office and principal place of business in Atlanta, Georgia, incorporated under the laws of South Dakota and Delaware and which had been incorporated originally under the laws of Georgia and also the District of Columbia, under charters which had expired—

(a) Represented through statements in catalogs, letterheads, leaflets, circulars and other advertising material that it was an educational institution of higher learning, having adequate buildings, equipment and facilities for appropriate instruction in the arts and sciences and learned professions, including law, medicine and theology, and that it had a competent faculty of learned persons who were engaged in the instruction of resident students as well as nonresident students by correspondence, and that the academic degree indicated after the name of each faculty member in its catalog and other advertising material represented high scholastic attainment, and was obtained through appropriate study and instruction at an accredited institution of higher learning;

The facts being that it was a correspondence school conducted by its president from his law office, consisting of three small rooms in an office building in the aforesaid city; its faculty had long consisted of said individual and members of his immediate family, who had not qualified as instructors in a university by completing appropriate courses of study and instruction at an accredited institution of higher learning, and the other members of his faculty, whose names were set forth in its catalogues were individuals residing in various states who were engaged in professions and occupations other than teaching, many of whom had never resided in or visited the State of Georgia and some of whom had died; and in most instances the degrees appended to the names of faculty members in his catalogues were not conferred by any accredited institution of higher learning in recognition of scholastic attainment, but were conferred upon them by him, or by institutions of like character, without adequate study or instruction;

(b) Represented as aforesaid that its said courses of instruction were adequate to give students high scholastic standing; and that his said professional courses were adequate to equip students to practice the learned professions; and that students pursuing such courses earned credits and, upon their completion, were granted degrees that were recognized and accepted by accredited institutions of higher learning and by duly established accrediting agencies;

The facts being that said courses consisted of multigraphed lessons and text books on the subjects purported to be taught, and questionnaires; in a number of instances, the president furnished the answers to the questions or references to the book and page where they could be found; said materials and methods were wholly inadequate to qualify any student to receive credits or a degree recognized or accepted by accredited educational institutions or by duly established accrediting agencies; and such credits and degrees were not so recognized or accepted; and the professional courses given by him were wholly insufficient to enable the student to engage in a profession;

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- (c) Represented through use of the phrase "duly chartered under State laws," in its catalogues and otherwise, that the school was approved and its credits were recognized by the State Board of Education of the State of Georgia and the other states in which it had obtained charters;
- The facts being that the Georgia charter under which it had operated its school had lapsed more than two years prior to filing of the complaint, and the school had never been inspected, approved or recognized by any appropriate board or agency in any of the states where it had been chartered; and
- (d) Falsely represented and implied, through the use of the word "University" in its corporate name and advertising material, that it was an institution of higher learning as that term is understood in the educational world, with a competent faculty and adequate equipment and facilities, and power to give credits to its students and to confer recognized degrees upon its graduates;
- With the effect of misleading and deceiving prospective students and the purchasing public into the erroneous belief that such representations were true, and that it was an institution of higher learning; and of causing them because of such erroneous belief, to buy its courses, thereby diverting trade to it from its competitors who did not misrepresent their schools, to the serious injury of substantial competition in commerce:
- Held*, That such acts and practices, under the circumstances set forth, were all to the prejudice of the public and its competitors, and constituted unfair methods of competition in commerce and unfair and deceptive acts and practices therein.

Mr. J. L. York for the Commission.

Mr. Jay D. Bradley, of Atlanta, Ga., and *Mr. Charles H. Rowan, Jr.*, of Milwaukee, Wis., 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 Webster University, a corporation, hereinafter referred to as respondent, has violated the provisions of the 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, Webster University, is a corporation, organized and existing under the laws of the State of South Dakota and Delaware, with its office and principal place of business at 121½ Luckie Street, in the city of Atlanta, Ga. Respondent was incorporated originally in the State of Georgia and under the name and style of Peoples National University, but the name of respondent was changed to Webster University under date of October 24, 1929. Said original charter expired on April 5, 1942, and has not been renewed. Respondent was likewise incorporated in the District of Columbia but such charter has also expired.

PAR. 2. Respondent is now, and for several years last past has been, engaged in the sale and distribution of correspondence courses of study and instruction to purchasers thereof located in the various States of the United States and in the District of Columbia; and respondent causes and has caused its correspondence courses, when so sold, to be transported through the United States mail from its principal place of business in Atlanta, Georgia, to such purchasers thereof in the various States of the United States other than the State of Georgia, and in the District of Co-

lumbia. There is now, and has been for several years last past, a course of trade and commerce by said respondent in said correspondence courses between and among the States of the United States and in the District of Columbia, and said courses of study and instruction have been and are pursued by means of correspondence through the United States mail. In the course and conduct of its business respondent is, and was at all times herein referred to, in substantial competition with other corporations, individuals, firms, schools and universities likewise engaged in the sale and distribution of correspondence courses of study and instruction in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. Respondent, in the course and conduct of its business, as aforesaid, solicits the purchase of its correspondence courses by means of catalogues, letterheads, leaflets, circulars and other advertising material circulated by mail among prospective students or members of the public generally in the various States of the United States other than the State of Georgia, and in the District of Columbia. In all of said advertising material respondent seeks and has sought to induce prospective students and members of the public to purchase its correspondence courses by representing and implying in substance as follows:

1. That respondent is an educational institution of higher learning, having adequate buildings, equipment and facilities for appropriate instruction in the arts and sciences, and learned professions, including law, medicine and theology.

2. That respondent has a competent faculty of learned persons who are engaged in the instruction of resident students as well as nonresident students by correspondence and that the academic degree indicated after the name of each faculty member in respondent's catalogues and other advertising material represents high scholastic attainment and was obtained through appropriate study and instruction at an accredited institution of higher learning.

3. That said courses of instruction are adequate to give students high scholastic standing; and that said professional courses are adequate to equip students to carry on and practice the learned professions. That students pursuing such courses earn credits and upon their completion are granted degrees that are recognized and accepted by accredited institutions of higher learning and by duly established accrediting agencies.

4. That respondent's institution is approved and that its credits are recognized by the State Board of Education of the State of Georgia and the other States in which it obtained charters because of the representation in its catalogues and otherwise that it is duly chartered under State laws.

Through the use of the word "University" in its corporate name and in its advertising material, respondent represents and implies that it is an institution of higher learning, as that term is understood in the educational world, offering appropriate instruction in the arts and sciences and in one or more of the special branches of learning, such as law, theology and medicine; that respondent has a faculty of instructors competent to teach said subjects and that the members of such faculty possess degrees conferred by accredited colleges and universities for study and scholastic attainment; that said respondent maintains adequate equipment and facilities, including classrooms, buildings, libraries and laboratories for the use of resident students and faculty members; and that said respondent is empowered to give credits to its students and confer degrees upon its graduates that are

recognized and accepted generally by accredited institutions of higher learning and by duly established accrediting agencies.

PAR. 4. In truth and in fact, the foregoing representations and statements made by respondent are false, deceptive and misleading in the following respects:

1. Respondent is not an educational institution of higher learning, but is a correspondence school conducted by respondent's president from his law office consisting of three small rooms in an office building in Atlanta, Ga. Respondent has no buildings, laboratories, libraries or other equipment suitable for the teaching of resident students.

2. Respondent has no faculty of learned persons as instructors in the arts and sciences, in postgraduate courses, or in any of the special branches of learning, such as law, medicine or theology. Respondent's faculty now consists, and for many years last past has consisted, of respondent's president and members of his immediate family who have not qualified as instructors in a university by completing appropriate courses of study and instruction at an accredited institution of higher learning. The members of respondent's faculty whose names are set forth in its catalogues in addition to respondent's president and his immediate family are individuals residing in various States of the United States who are engaged in professions and occupations other than teaching. Many of them have never resided in or visited the State of Georgia and in some instances the names of deceased persons were included by respondent in its catalogues and other advertising material as active instructors. In most instances the degrees appended to the names of faculty members in respondent's catalogues were not conferred by any accredited institution of higher learning in recognition of scholastic attainment, but were conferred upon them by respondent, or by institutions of like character, without adequate study or instruction.

3. The courses given by respondent consist of multigraphed lessons and text books on the respective subjects purported to be taught and questionnaires; and in a number of instances respondent has furnished the answers to the questions asked or references to the book and page where such answers can be found. Such materials and methods of study and instruction are wholly inadequate to qualify any student to receive credits or a degree that is recognized or accepted by accredited institutions of higher learning or by duly established accrediting agencies, and such credits and degrees are not and have not been so recognized or accepted. The professional courses given by respondent are of the same character and are wholly insufficient to enable the student to engage in or practice a profession.

4. The use of the phrase "duly chartered under State laws" has a tendency to lead and in fact has led a number of prospective purchasers of respondent's courses into the belief that the respondent corporation was chartered under the laws of the State of Georgia and had been inspected and approved by the State Board of Education, and that its credits were recognized by said Board. In truth and in fact, the charter under which respondent had operated its school issued by the duly authorized authority in the State of Georgia had lapsed more than two years prior to the filing of this complaint. Respondent's school has never been inspected, approved or recognized by any appropriate State government board or agency either in the States of Georgia, Delaware or South Dakota, or in the District of Columbia.

PAR. 5. The use of the word "University" by respondent in its corporate name and in its catalogues and other advertising material, and the statements, representations and implications contained therein that respondent is an institution of higher learning, with adequate faculty, equipment and facilities for instructing resident and nonresident students in the courses therein described; the representation and implication that the members of its faculty possess degrees conferred upon them by accredited institutions of higher learning for high scholastic attainment and that they are well equipped to teach the respective courses described in respondent's catalogues and other advertising material; that respondent's courses are adequate to give students high scholastic standing; that its professional courses are adequate to equip students to carry on and practice the learned profession, and that respondent is authorized to give credits and confer degrees that are recognized and accepted by accredited institutions and duly established accrediting agencies, all are calculated to, and do, have the capacity and tendency to, and do mislead and deceive prospective students and the purchasing public by creating the erroneous belief that the statements and representations made by respondent are true, and that respondent is an institution of higher learning; and to cause a substantial number of such prospective students and the purchasing public, acting on such erroneous belief, to buy said correspondence courses, thereby diverting trade to said respondent from its competitors who do not misrepresent their schools, equipment or facilities or courses of study and instruction, their faculties or the value of credits given or degrees conferred by them, and thereby doing serious injury to substantial competition in said commerce.

PAR. 6. The aforesaid acts and practices of respondent, as herein alleged, are all to the prejudice and injury of the public and respondent's competitors and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on June 2, 1944, issued, and on June 6, 1944, served its complaint in this proceeding upon respondent, Webster University, a corporation, charging it with the use of unfair methods of competition and unfair and deceptive acts or practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an amended answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts, which substitute answer was duly filed in the office of the Commission. 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. Respondent, Webster University, is a corporation, organized and existing under the laws of the State of South Dakota and Delaware, with its office and principal place of business at 121½ Luckie Street, in the city of Atlanta, Ga. Respondent was incorporated originally in the State of Georgia and under the name and style of Peoples National University, but the name of respondent was changed to Webster University under date of October 24, 1929. Said original charter expired on April 5, 1942, and has not been renewed. Respondent was likewise incorporated in the District of Columbia but such charter has also expired.

PAR. 2. Respondent is now, and for several years last past has been, engaged in the sale and distribution of correspondence courses of study and instruction to purchasers thereof located in the various States of the United States and in the District of Columbia; and respondent causes and has caused its correspondence courses, when so sold, to be transported through the United States mail from its principal place of business in Atlanta, Georgia, to such purchasers thereof in the various States of the United States other than the State of Georgia, and in the District of Columbia. There is now, and has been for several years last past, a course of trade and commerce by said respondent in said correspondence courses between and among the States of the United States and in the District of Columbia, and said courses of study and instruction have been and are pursued by means of correspondence through the United States mail. In the course and conduct of its business respondent is, and was at all times herein referred to, in substantial competition with other corporations, individuals, firms, schools and universities likewise engaged in the sale and distribution of correspondence courses of study and instruction in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. Respondent, in the course and conduct of its business, as aforesaid, solicits the purchase of its correspondence courses by means of catalogues, letterheads, leaflets, circulars and other advertising material circulated by mail among prospective students or members of the public generally in the various States of the United States other than the State of Georgia, and in the District of Columbia. In all of said advertising material respondent seeks and has sought to induce prospective students and members of the public to purchase its correspondence courses by representing and implying in substance as follows:

1. That respondent is an educational institution of higher learning, having adequate buildings, equipment and facilities for appropriate instruction in the arts and sciences, and learned professions, including law, medicine and theology.

2. That respondent has a competent faculty of learned persons who are engaged in the instruction of resident students as well as nonresident students by correspondence and that the academic degree indicated after the name of each faculty member in respondent's catalogues and other advertising material represents high scholastic attainment and was obtained through appropriate study and instruction at an accredited institution of higher learning.

3. That said courses of instruction are adequate to give students high scholastic standing; and that said professional courses are adequate to equip students to carry on and practice the learned professions. That

students pursuing such courses earn credits and upon their completion are granted degrees that are recognized and accepted by accredited institutions of higher learning and by duly established accrediting agencies.

4. Through the use of the representation in its catalogues and otherwise that it is "duly chartered under State laws," the respondent represents that its school is approved and that its credits are recognized by the State Board of Education of the State of Georgia and the other States in which it has obtained charters.

Through the use of the word "University" in its corporate name and in its advertising material, respondent represents and implies that it is an institution of higher learning, as that term is understood in the educational world, offering appropriate instruction in the arts and sciences and in one or more of the special branches of learning, such as law, theology and medicine; that respondent has a faculty of instructors competent to teach said subjects and that the members of such faculty possess degrees conferred by accredited colleges and universities for study and scholastic attainment; that said respondent maintains adequate equipment and facilities, including classrooms, buildings, libraries and laboratories for the use of resident students and faculty members; and that said respondent is empowered to give credits to its students and confer degrees upon its graduates that are recognized and accepted generally by accredited institutions of higher learning and by duly established accrediting agencies.

PAR. 4. In truth and in fact, the foregoing representations and statements made by respondent are false, deceptive and misleading in the following respects:

1. Respondent is not an educational institution of higher learning, but is a correspondence school conducted by respondent's president from his law office consisting of three small rooms in an office building in Atlanta, Ga. Respondent has no buildings, laboratories, libraries or other equipment suitable for the teaching of resident students.

2. Respondent has no faculty of learned persons as instructors in the arts and sciences, in postgraduate courses, or in any of the special branches of learning, such as law, medicine or theology. Respondent's faculty now consists, and for many years last past has consisted, of respondent's president and members of his immediate family who have not qualified as instructors in a university by completing appropriate courses of study and instruction at an accredited institution of higher learning. The members of respondent's faculty whose names are set forth in its catalogues in addition to respondent's president and his immediate family are individuals residing in various States of the United States who are engaged in professions and occupations other than teaching. Many of them have never resided in or visited the State of Georgia and in some instances the names of deceased persons were included by respondent in its catalogues and other advertising material as active instructors. In most instances the degrees appended to the names of faculty members in respondent's catalogues were not conferred by any accredited institution of higher learning in recognition of scholastic attainment, but were conferred upon them by respondent, or by institutions of like character, without adequate study or instruction.

3. The courses given by respondent consist of multigraphed lessons and text books on the respective subjects purported to be taught and questionnaires; and in a number of instances respondent has furnished the answers to the questions asked or references to the book and page where such an-

swers can be found. Such materials and methods of study and instruction are wholly inadequate to qualify any student to receive credits or a degree that is recognized or accepted by accredited institutions of higher learning or by duly established accrediting agencies, and such credits and degrees are not and have not been so recognized or accepted. The professional courses given by respondent are of the same character and are wholly insufficient to enable the student to engage in or practice a profession.

4. The use of the phrase "duly chartered under State laws" has a tendency to lead and in fact has led a number of prospective purchasers of respondent's courses into the belief that the respondent corporation was chartered under the laws of the State of Georgia and had been inspected and approved by the State Board of Education, and that its credits were recognized by said Board. In truth and in fact, the charter under which respondent had operated its school issued by the duly authorized authority in the State of Georgia had lapsed more than two years prior to the filing of this complaint. Respondent's school has never been inspected, approved or recognized by any appropriate State government board or agency in any of the States where it has been chartered.

PAR. 5. The use of the word "University" by respondent in its corporate name and in its catalogues and other advertising material, and the statements, representations and implications contained therein that respondent is an institution of higher learning, with adequate faculty, equipment and facilities for instructing resident and nonresident students in the courses therein described; the representation and implication that the members of its faculty possess degrees conferred upon them by accredited institutions of higher learning for high scholastic attainment and that they are well equipped to teach the respective courses described in respondent's catalogues and other advertising material; that respondent's courses are adequate to give students high scholastic standing; that its professional courses are adequate to equip students to carry on and practice the learned professions, and that respondent is authorized to give credits and confer degrees that are recognized and accepted by accredited institutions and duly established accrediting agencies, all are calculated to, and do, have the capacity and tendency to, and do mislead and deceive prospective students and the purchasing public by creating the erroneous belief that the statements and representations made by respondent are true, and that respondent is an institution of higher learning; and to cause a substantial number of such prospective students and the purchasing public, acting on such erroneous belief, to buy said correspondence courses, thereby diverting trade to said respondent from its competitors who do not misrepresent their schools, equipment or facilities or courses of study and instruction, their faculties or the value of credits given or degrees conferred by them, and thereby doing serious injury to substantial competition in said commerce.

CONCLUSION

The aforesaid acts and practices of the respondent, as herein found, are all to the prejudice of the public and of respondent's competitors and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that it waives 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 respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Webster University, 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 its correspondence courses in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "University" or any abbreviation or simulation thereof, as a part of respondent's corporate name or as a part of the name of respondent's school.

2. Representing, in any manner, directly or by implication, that respondent's school is a university.

3. Representing, directly or by implication, that respondent is an educational institution of higher learning or has adequate buildings, equipment or facilities for appropriate instruction in the arts and sciences, or in the learned professions, including law, medicine and theology.

4. Representing, directly or by implication, that respondent has a competent faculty of learned persons who are engaged in the instruction of resident students as well as nonresident students by correspondence or that the academic degree indicated after the name of each faculty member in respondent's catalogues and other advertising material represents high scholastic attainment or was obtained through appropriate study and instruction at an accredited institution of higher learning.

5. Representing, directly or by implication, that the courses of instruction offered by respondent are adequate to give students high scholastic standing or that said professional courses are adequate to equip students to carry on or practice the learned professions; or that students pursuing such courses earn credits or upon their completion are granted degrees that are recognized or accepted by accredited institutions of higher learning or by duly established accrediting agencies.

6. Representing, directly or by implication, that respondent's school is approved or that its credits are recognized by the State Board of Education of the State of Georgia or of any of the States in which it obtained charters, through statements in its catalogues or advertising material that respondent is duly chartered under State laws or through any other means or instrumentality.

It is further ordered, That the respondent shall, within 60 days after 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
EUGENE CLEMENT D' ART, TRADING AS VICTORY
COAL SAVER MFG. CO.

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

Docket 5076. Complaint, Nov. 2, 1943—Decision, Mar. 8, 1945

Where an individual engaged in the interstate sale and distribution of his "Victory Coal Saver" chemical powder for use on coal, composed of about 90 percent common salt and small percentages of potassium permanganate and other substances, and contained in 8-ounce packages which sold usually for \$1.00 each—

- (a) Represented, directly or by implication, through advertisements in circulars, circular letters and other advertising literature, that the use of his product would effect savings up to fifty percent in coal consumption; increase the heat supplied by coal; cause coal to burn more slowly, evenly and thoroughly; reduce smoke and ash; and prevent the formation of soot in chimneys and aid in the removal of soot already formed;

The facts being, as established by an examination and analysis by the United States Bureau of Mines together with the testimony of the Bureau's expert who prepared the report thereon, that said product was wholly incapable of producing any of the results above claimed therefor;

- (b) Represented as aforesaid, that the product or the principal ingredient therein had been endorsed or approved by the United States Bureau of Mines for use in preventing and removing soot;

The facts being that neither said product nor any ingredient thereof had been endorsed or approved by said Bureau; while salt, when properly used in sufficiently high concentrations, is recognized by the Bureau as an effective soot remover, the amount provided by his product was so small as to be valueless from a practical viewpoint, since, to be effective, approximately eighty times the amount of salt provided by a package of the product would have to be used for each ton of coal treated;

- (c) Falsely represented or implied, through the use of the words "Coal Saver" in his trade name and the designation of his product, that use thereof would effect a saving in coal consumption;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to said product, and thereby cause it to purchase substantial quantities thereof:

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

Before *Mr. J. Earl Cox*, trial examiner.

Mr. Merle P. Lyon and *Mr. Clark Nichols* 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 Eugene Clement d'Art, an individual, trading as Victory Coal Saver Mfg. Co., hereinafter referred to as the