

IN THE MATTER OF
GERALD A. RICE DOING BUSINESS AS OFFICE OF CIVIL
PREPARATION

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

Docket 5321. Complaint, May 19, 1945—Decision, Aug. 27, 1948

Where an individual engaged under the trade names "Public Service Institute" and "Chicago Secretarial College," and, less recently, "Civil Extension Service" and "Office of Civil Preparation," in the interstate sale and distribution of correspondence courses of studies for examinations for civil service position in the United States Government, and in advertising the same through printed matter and letters which were mailed and distributed to prospective students throughout the United States and particularly throughout the Northwestern States, and which included post cards, with return card, hand-out cards, and circulars, and included, in connection therewith, one of aforesaid trade names, and a spread eagle design or emblem similar to and in imitation of the great seal of the United States, or other similar emblems;

In selling his said courses through such advertising matter, wherein were made such statements as "CIVIL SERVICE Men—Women—18 to 45 Years of Age MANY OPPORTUNITIES, Common School Education Usually Sufficient," followed by a list of positions and salaries and the statement, "If you want to be ready to fill one of the next thousands of jobs with the Government that must be filled from time to time due to death, retirements, and normal Government expansion, fill in the attached card and mail at once,"; "GOVERNMENT POSITIONS ATTENTION! WANTED AT ONCE: * * ", etc.; and, under the caption, "Office of Civil Preparation, Spokane, Washington," the words, "Subject to change without notice. Positions as rated by the Civil Service Commission," followed by a list of 28 positions, with sex, age, etc.; and through personal calls of himself and his salesmen—

(a) Falsely represented and implied that his so-called "Public Service Institute," "Civil Extension Service," and "Office of Civil Preparation" were branches of or connected with the United States Civil Service Commission and that he and his agents were representatives of the Government; through aforesaid advertising and trade names, use of the designations "Director," "Assistant Director," and "Chief Special Agent," in correspondence with prospective students and purchasers, use of aforesaid emblems in application blanks and elsewhere as above set out, and statements to such effect in said personal calls, in which he and his salesmen referred to themselves as Government men, employed by said commission; and

(b) Falsely represented, as aforesaid, that civil service positions were immediately available and that he could place prospective students and purchasers, thus contacted, in such Government positions;

When in fact all of such statements, representations, and implications were wholly false, deceptive, and misleading; neither he nor his business as before designated was nor ever had been connected with said commission or any other branch or agency of the Government; he operated his business solely to sell courses of study designed to prepare purchasers for such examinations; was not a Government man or representative of said Commission or any other branch of the Government; and never had any power or authority whatsoever to promise to place any person in a civil service position;

With tendency and capacity to mislead and deceive a substantial portion of the public, notwithstanding certain disclaimers in the form of a statement and "notice" included on the front and back of the application form for prospective purchasers and students, with respect to the nature and status of said individual's courses of study, and the opportunities for appointment to Government positions through the exercise of his influence, and thereby to cause such members to purchase said course and instruction:

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.

As respects the contention of respondent in said proceeding that a statement which appeared in the margin of the front page of the application form, and a "notice to applicant" which appeared on the bottom of the back page thereof, and which respectively advised the reader or applicant (1) that "The Office of Civil Preparation is a private institution, organized and conducted to assist young men and women to prepare for civil service examinations," and was "in no way connected with the Civil Service Commission or any other part of the government," and could not guarantee applicant's eligibility and did not "promise or assume any responsibility for appointment," which "would be unethical and illegal," and (2) that such examinations were "open and competitive," that appointment would "depend upon your grade and no one, therefore, can GUARANTEE your appointment"; that such examinations were announced from Washington and no one had any "advance" information with respect thereto; that the Government neither maintained any office or school giving Civil Service training nor sponsored or recommended any particular training or method; and that neither said "Office of Civil Preparation" nor its employees were connected with the Government;

Such statement or "notice", even if read by every prospective student before signing the contract, was wholly insufficient to dispel the impressions and understandings created as hereinbefore set forth as to said individual's Government affiliations and authority to guarantee employment, as evidenced by the testimony of a number of actual purchasers of his courses to the effect that in executing their contracts they did so under the distinct impression that they were dealing with official representatives of the Government, and with the definite understanding that he and his agents had the authority to and were guaranteeing them employment in Civil Service positions upon the completion of their studies; and the Commission was of the opinion and found that they were wholly insufficient to counteract the deceptive character of said individual's practices.

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Before *Mr. Clyde M. Hadley* and *Mr. Everett F. Haycraft*, trial examiners.

Mr. William L. Pencke for the Commission.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act act and by virtue of the authority vested in it by said act, the Federal Trade Commission having reason to believe that *Gerald A. Rice*, an individual, doing business under the name of Office of Civil Preparation, 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, *Gerald A. Rice*, is an individual, trading and doing business under the name and style of Office of Civil Preparation, with his office and principal place of business in the city of Spokane and State of Washington; his mailing address being Room 418, Spokane Hotel, Spokane, Wash.

PAR. 2. For more than 4 years last past, respondent had been engaged in the sale and distribution in commerce between and among the various States of the United States of courses of study and instruction intended for preparing students thereof for examination for certain Civil Service positions under the United States Government, which said courses were pursued by correspondence through the medium of the United States mail. Respondent, in the course and conduct of said business during the time aforesaid, caused his said courses of study and instruction to be transported from his said place of business in the State of Washington to, into and through States of the United States other than Washington to the purchasers thereof in such other States. There has been at all times mentioned herein a course of trade in said courses of instruction so sold and distributed by respondent in commerce between and among the various States of the United States.

PAR. 3. In the sale of said courses of study and instruction respondent made use of printed advertising matter and letters mailed or distributed to prospective students throughout the Northwestern States of the United States in and by which various false, misleading and deceptive representations were made in regard to said courses of study

and matters and things connected therewith. Typical of such representations were the following:

CIVIL SERVICE
MEN—WOMEN—18 to 45 YEARS OF AGE
MANY OPPORTUNITIES
COMMON SCHOOL EDUCATION USUALLY SUFFICIENT

Railway Mail Clerk	Storekeeper-Gauger	Immigrant Inspector
Postal Laborer	Customs Positions	Telephone Operator Jr.
Post Office Clerk	File Clerk	Meat Inspector
City Mail Carrier	Social Security Positions	Forest and Field Clerk
Rural Mail Carrier	Internal Revenue	Income Tax Auditor
Stenographer	Immigration Clerk	Junior Graduate Nurse.
Typist	Customs Inspector	
Postmaster	Customs Patrol Inspector	

If you want to be ready to fill one of the next thousands of jobs with the Government that must be filled from time to time due to death, retirements, and normal Government expansion, fill in the attached card and mail at once.

ABOVE ARE A FEW OF THE 900 DIFFERENT KINDS OF GOV'T JOBS.

OFFICE OF CIVIL
PREPARATION Box 1000
Spokane, Washington

A Few of the Many Desirable Positions in Federal Civil Service

Border Patrol	Chauffeur Mechanic
Customs Inspector	Fingerprint Classifier
Park Ranger	Railway Mail Clerk
Forest & Field Clerk	Post Office Clerk
Revenue Agent	R. F. D. Carrier
Distillery Inspector	Civil Service Examiner
Meat Inspector	Telephone Operator
Prison Guard	Weather Bureau

GOVERNMENT POSITIONS
ATTENTION!!

Wanted at once: Men and Women, ages 18 to 45, who are interested in the Government Service as a career.

On his letter heads, advertising material and application blanks, respondent used the spread-eagle design in imitation of the great seal of the United States and other emblems of the United States Government; and in conducting correspondence with prospective purchasers of said course of study, respondent used, among others, such designations as "Chief Special Agent," "Director," and "Assistant Director."

PAR. 4. By means of the foregoing statements and representations and others to the same effect not herein set out, respondent repre-

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sented and implied that the "Office of Civil Preparation" was a branch of, or was connected with, the United States Government or the Civil Service Commission of said Government; that at the time of the dissemination of respondent's advertisements thousands of positions were available in hundreds of branches of the United States Civil Service and that vacancies existed in the specific positions listed in respondent's advertising material; that a common school education was usually sufficient to fill positions in the civil service, including the positions listed by respondent; that said positions were available because of vacancies due to death, retirements, and normal government expansion and may be obtained through respondent's Office of Civil Preparation.

Through the use of the simulation of the official United States Government insignia, the trade name, "Office of Civil Preparation" and the designations "Chief Special Agent," "Director," and "Assistant Director," the respondent represented and implied that respondent's so-called Office of Civil Preparation was a branch of, or connected with, the United States Civil Service Commission or some agency of the Government of the United States.

When making personal calls upon prospective purchasers of his said course of study, respondent stated that he was a Government man or implied that he was connected with the United States Government; that civil-service positions were immediately available and that he could place said prospective students in such Government positions.

PAR. 5. In truth and in fact, all of said statements and representations were false, deceptive, exaggerated, and misleading. Said Office of Civil Preparation was not connected with nor a part of any branch or agency of the United States Government. Respondent Gerald A. Rice operated said business solely for the purpose of selling courses of study designed to prepare students thereof for civil-service examinations; he was not a Government man or employee of the United States Civil Service Commission or any other branch of the United States Government and had no power or authority whatever to promise, or place any person in, civil-service positions. The words "Office of Civil Preparation," as used in said trade name, the spread-eagle designs reproduced in the advertising material, and the use of official designations were all grossly misleading and created the impression and belief among members of the purchasing public that respondent was officially connected with or that his business constituted a part of the United States Government or the United States Civil Service Commission.

The representation that a common school education was usually sufficient to obtain civil-service positions was inaccurate and misleading particularly with respect to the positions listed in respondent's advertising material. In truth and in fact, most of said positions require special training and qualifications.

The representation that thousands of positions were available, including those specifically listed by respondent, due to death, retirement, and normal Government expansion was exaggerated and misleading. While some vacancies occur due to the circumstances described by respondent, their number does not run into thousands; there are, moreover, many conditions prevailing which govern the placement of new employees in civil service other than those of death, age, and retirement.

In truth and in fact, no examinations had been held for some time or were contemplated in the near future for a number of the positions listed by respondent in his advertisements for the reasons that the registers for said respective positions contained sufficient names to fill all vacancies. Moreover, announcements for many examinations are made for which only persons having veteran preference are eligible.

PAR. 6. The use by the respondent of the representations aforesaid, has had the tendency and capacity to confuse, mislead, and deceive members of the public into the erroneous and mistaken belief that such representations were true, and induced them to purchase respondent's courses of study and instruction in said commerce on account thereof.

PAR. 7. The aforesaid acts and practices of the respondent, as herein alleged, were all to the prejudice and injury of the public and constituted 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 May 19, 1945, issued and subsequently served its complaint in this proceeding upon the respondent, Gerald A. Rice, an individual, trading as Office of Civil Preparation, charging said respondent with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that act. Said respondent not having filed an answer, the Commission on March 8, 1946, designated and appointed a trial examiner of the Commission to take testimony and receive evidence in support of and in opposition to the complaint, and on April 22, 1946, a hearing was convened at Port-

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land, Oreg., for that purpose. The respondent at said hearing read into the record a request or petition to be permitted to file an answer out of time and on May 3, 1946, the Commission granted said request and received and accepted from the respondent an answer in which the respondent admitted all of the material allegations of fact set forth in the 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 upon the complaint and said answer thereto, and the Commission, on October 10, 1946, having considered the matter, issued and subsequently served upon the respondent its findings as to the facts and conclusion drawn therefrom and its order to cease and desist.

On March 11, 1947, the matter came before the Commission again on a letter from the respondent dated December 5, 1946, which was treated as a motion to vacate and set aside the aforesaid findings as to the facts and order to cease and desist and to withdraw the answer filed on May 3, 1946, and the Commission, having considered said motion, the answer thereto, and the record as a whole, and being of the opinion that at the time of filing his answer admitting the material allegations of the complaint the respondent did not fully understand the import of said answer, ordered that the findings as to the facts and order to cease and desist issued on October 10, 1946, be vacated and set aside, that the respondent be permitted to withdraw his answer filed on May 3, 1946, and that the case be reopened for the purpose of taking such testimony and other evidence as may be offered in support of the allegations of the complaint and in opposition thereto and for such other proceedings as may be appropriate.

Thereafter, beginning on July 29, 1947, testimony and other evidence in support of and in opposition to the allegations of the complaint were introduced before another trial examiner of the Commission who had been duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Subsequently, the proceeding regularly came on for final hearing before the Commission upon the complaint, the testimony and other evidence, the recommended decision of the trial examiner, and a brief of counsel supporting the complaint (no brief having been filed by the respondent and oral argument not having been requested); 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.

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FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Gerald A. Rice, is an individual trading and doing business under the trade names "Public Service Institute" and "Chicago Secretarial College," with his office and principal place of business at the present time in the city of Seattle, State of Washington, his office address being in his home, located at 1310 North Forty-fifth Street in said city of Seattle. Prior to January 1947 said respondent, for a period of approximately 2 years, operated under the trade name and style of "Civil Extension Service," and prior to October 1945 he operated under the trade name "Office of Civil Preparation," with his office and principal place of business in the city of Spokane, State of Washington. His mailing address at that time was the Spokane Hotel, Spokane, Wash.

PAR. 2. Since about the year 1928, the respondent has been engaged in the sale and distribution in commerce among and between the various States of the United States of courses of study and instruction intended to prepare students for examinations for civil service positions in the United States Government, which said courses were pursued by correspondence through the medium of the United States mails. The respondent, in the course and conduct of said business, has caused his said courses of study and instruction to be transported from his respective places of business in the State of Washington to, into and through, States of the United States other than the State of Washington to the purchasers thereof in such other States. At all times mentioned herein there has been a regular course of trade in said courses of study and instruction so sold and distributed by the respondent in commerce among and between the various States of the United States.

PAR. 3. In the sale of such courses of study and instruction, the respondent has made use of printed advertising matter and letters mailed and distributed to prospective students throughout the United States, and particularly throughout the Northwestern States of the United States, in and by which various statements and representations were made in regard to said courses of study and instruction and to matters and things connected therewith. Typical of such statements and representations have been the following:

On a post card addressed to "Post Office Box Holder"—

CIVIL SERVICE

Men—Women—18 to 45 Years of Age

MANY OPPORTUNITIES

Common School Education Usually Sufficient.

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Under this heading has appeared a list of positions with salaries, such as railway mail clerk, postal laborer, post office clerk, etc., as listed in the Commission's complaint, followed by:

If you want to be ready to fill one of the next thousands of jobs with the Government that must be filled from time to time due to death, retirements, and normal Government expansion, fill in the attached card and mail at once.

On the part of the card to be mailed to the respondent by the prospective student has appeared the following:

I am interested in securing government employment. Send me free information concerning program which is available to help men and women prepare for civil service examinations. I am a citizen of good character, in good physical condition. I would like a personal interview soon.

Here follow blank spaces for the prospective student's name, street address, occupation, etc., and a space for directions to the applicant's home. At the bottom of the card in large type has appeared:

PERMANENCY—PENSIONS—VACATIONS—PROMOTIONS (Comm. Ex. 1-A)

Another card contained the following:

GOVERNMENT POSITIONS

ATTENTION!!

WANTED AT ONCE: Men and Women, ages 18 to 45, who are interested in the Government Service as a Career. Many positions require NO experience. Common education often sufficient. Steady work. Short hours. No strikes. No layoffs. Good Permanent Salaries. Promotions, Paid Vacations. Sick Leaves with pay. PENSION for your OLD AGE. Every year there are THOUSANDS of openings for Federal, State, City and County jobs. Get ready immediately at home during spare time. Low fee. Convenient terms. Why postpone SECURITY? For VALUABLE and RELIABLE Information FREE—mail this card today, sure.

This card also carries a list of positions under the caption "A Few of the Many Desirable Positions in Federal Civil Service." (Comm. Exs. 1-A and 1-C.)

The hand-out cards contained practically the same information as that just quoted from the post card sent to prospective students through the mail. On both cards the following language was used:

PERMANENCY—VACATIONS—PROMOTIONS—PENSIONS

If you are interested in preparing yourself, and want a civil service career, fill out this card for FREE INFORMATION and a personal interview if possible. You must be physically fit, a citizen and of good character. (Comm. Exs. 1-A and 3.)

A circular mailed out by respondent under the name "Office of Civil Preparation, Spokane, Washington" to prospective students throughout the country stated:

Subject to change without notice. Positions	OFFICE OF CIVIL
as rated by the Civil Service Commission.	PREPARATION
	SPOKANE, WASHINGTON

Partial List of

U. S. CIVIL SERVICE POSITIONS.

(Here followed a list of 28 names of positions, with sex, age, educational requirements, height, weight, and starting salary.) Below this list was the following:

The above list contains only a few of the more than 1700 different kinds of Civil Service jobs which include nearly every kind of work imaginable. According to the Civil Service Manual (Alten, 1940) there are now 3,750,000 men and women holding Civil Service jobs, and more than 210,000 new appointments are made every twelve months. Please note that the salaries shown are minimum starting salaries. Civil Service offers: Permanent Employment, Promotions, Vacations, Sick Leave, Pensions. A Civil Service job can be yours if you can qualify. For complete and reliable information concerning City, County, State and U. S. Civil Service opportunities send your name, address, age and occupation to:

OFFICE OF CIVIL PREPARATION

Post Office Box 1000

Spokane, Wash.
(Comm. Ex. 4.)

PAR. 4. In addition to the above statements, the respondent, on his letterheads, advertising material, and application blanks, has used a spread eagle design similar to and in imitation of the great seal of the United States and other similar emblems of the United States Government, and in conducting correspondence with prospective students and purchasers of said courses of study, the respondent has used, among others, such designations as "Director," "Assistant Director" and "Chief Special Agent." In making personal calls upon prospective students and other purchasers of his courses of study, the respondent and his agents and salesmen have also referred to themselves as Government men, employed by the Civil Service Commission, and have otherwise stated and implied that they had an official connection with the United States Government, particularly with the Civil Service Commission, and that civil service positions were immediately available and that the respondent could place said prospective students and purchasers of his courses in such Government positions.

PAR. 5. By means of the foregoing statements and representations, and others to the same effect not herein set out, the respondent has represented and implied that the "Public Service Institute," "Civil

Extension Service," and "Office of Civil Preparation," the respective trade names used by him, were branches of or were connected with the Civil Service Commission of the United States Government, and that many civil service positions in the Government, available because of vacancies due to death, retirement, and normal Government expansion, might be obtained through the respondent's "Public Service Institute," "Civil Extension Service," and "Office of Civil Preparation." Through the use of the trade names "Public Service Institute," "Civil Extension Service," and "Office of Civil Preparation," and the designations "Director," "Assistant Director," and "Chief Special Agent," and the use of the simulation of the official United State Government seal, the spread eagle, and other similar insignia, the respondent has represented and implied that his so-called Public Service Institute, Civil Extension Service an Office of Civil Preparation were branches of or connected with the United States Civil Service Commission, and that the respondent and his agents were representatives of the Government.

PAR. 6. All of such statements and representations and the implications thereof were wholly false, deceptive, and misleading. Neither the respondent nor his "Public Service Institute," "Civil Extension Service," or "Office of Civil Preparation" has ever been connected with, nor has he or his business ever been, a part of the United States Civil Service Commission or any other branch or agency of the United States Government. The respondent has operated his business solely for the purpose of selling courses of study designed to prepare purchasers thereof for civil service examinations. He was not a Government man nor a representative of the United States Civil Service Commission or any other branch of the United States Government, and he has never had any power or authority whatever to promise to place any person in civil service positions.

PAR. 7. As a part of his defense to this proceeding, the respondent referred to a statement appearing in the margin of the front page of the application form executed by prospective students at the time they contracted for his courses of study, and to a "Notice to Applicant" appearing on the bottom of the back page of said application form, and contended that any erroneous or mistaken impressions created by the use of the aforesaid trade names, designations, insignia, and affirmative statements were completely nullified by such statement and "Notice." The statement on the front page of the application form read as follows:

The Office of Civil Preparation is a private institution, organized and conducted to assist young men and women to prepare for civil service examinations,

and is in no way connected with the Civil Service Commission or any other part of the government. It cannot guarantee applicant's eligibility, nor does it promise or assume any responsibility for appointment. To do so would be unethical and illegal.

and the "Notice to Applicant" on the back of the form was:

NOTICE TO APPLICANT

Civil Service Examinations are open and competitive; your appointment will depend upon your grade and no one, therefore can GUARANTEE your appointment.

Civil Service Examinations are announced from Washington, D. C., and no one has any "advance" information concerning same.

The United States Government does not maintain or operate any office, bureau, or school giving Civil Service training, nor does it "sponsor" or recommend any particular training or method of preparation. Neither the Office of Civil Preparation nor its employees are connected with the Government.

Such statement and "Notice," even if read by every prospective student before he signed the contract and made his payment for the course of study he desired to pursue (and there is no proof that either was in fact read by any of such students at that time), was wholly insufficient to dispel the impressions and understandings theretofore created by the means and in the manner described as to the respondent's Government affiliations and his authority to guarantee employment. The total ineffectiveness of these disclaimers is clearly demonstrated in the record by the testimony of a number of actual purchasers of the respondent's courses of study, all of whom testified that they executed their contract under the distinct impression that they were dealing with official representatives of the Government and with the definite understanding that the respondent and his associates had the authority to and were guaranteeing them employment in civil service positions upon the completion of their courses of study. The Commission is of the opinion, therefore, and finds that the printed statements on the application form used by the respondent were wholly ineffective to counteract the deceptive character of the respondent's practices.

PAR. 8. The use by the respondent of the false, misleading, and deceptive representations herein set forth has had and now has the tendency and capacity to mislead and deceive a substantial portion of the public with respect to the nature and status of the respondent's courses of study and the opportunities for appointment to United States Government positions through the exercise of the respondent's influence, and has a tendency and capacity to cause such members of the public to purchase the respondent's courses of study and instruction

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as a result of the erroneous and mistaken belief engendered by such representations.

CONCLUSION .

The acts and practices of the respondent as herein found 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, testimony and other evidence in support of and in opposition to the allegations of the complaint taken before a trial examiner of the Commission theretofore duly designated by it, the recommended decision of the trial examiner and a brief of counsel in support of the complaint (no brief having been filed by the respondent and oral argument not having been requested) ; and the Commission having made its findings as to the facts and its conclusions that the respondent has violated the provisions of the Federal Trade Commission Act :

It is ordered, That the respondent, Gerald A. Rice, and his agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of courses of study and instruction intended for preparing students thereof for examinations for Civil Service positions in the United States Government, or any similar courses of study, do forthwith cease and desist from :

1. Representing, directly or by implication, through the use of the terms "Public Service Institute," "Civil Extension Service," "Office of Civil Preparation," or any other term of similar import or meaning, as a trade name or as a part thereof, that the respondent has any connection with the United States Government or any branch or agency thereof.

2. Representing, directly or by implication, through the use of the terms "Director," "Assistant Director," "Chief Special Agent," or any other term of similar import or meaning, to designate or describe the respondent or any of his representatives or salesmen, that the respondent or any of his employees have any connection with the United States Government or any branch or agency thereof.

3. Representing, through the use of emblems or other picturizations resembling or simulating official United States Government seals or

insignia that the respondent or his business is connected with the United States Government or any branch thereof.

4. Representing in any manner, either directly or by implication, that the respondent or his business has any connection with the Government of the United States or any branch or agency thereof, including the United States Civil Service Commission.

5. Representing, directly or by implication, that the respondent is authorized by the United States Civil Service Commission to qualify applicants for Government positions, or that positions in the United States Civil Service may or can be obtained through the respondent or by completing any of the respondent's courses of study.

6. Misrepresenting in any manner the positions and opportunities for employment in United States Civil Service positions of students completing the respondent's courses of study.

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
GOLD-TONE STUDIOS, INC. ET AL.

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

Docket 4779. Complaint, July 2, 1942—Decision, Sept. 2, 1948

Where a corporation and seven partners, including said corporation's president, vice president, and secretary-treasurer, who directed and controlled the corporate and partnership acts, practices and policies; engaged in the production and interstate sale and distribution of colored or tinted photographs, at the same premises and with the same telephone numbers, and in carrying on their operations through forty-four studios or branches operated under the corporate name, and seventeen under various other trade names, under a plan or program whereby each studio gave customers sittings and transmitted the negatives to the principal office where finished prints of the customers' selections were made and returned to the studio for delivery to the customer, with notation on the back that duplicates might be ordered "either through this studio or by writing direct to Camera Art Company, etc.—partnership trade name under which most of the work of developing negatives and finishing and supplying proofs and prints therefrom, was done;

In advertising their photographs, generally as "Gold-Tone Oil color portraits", in newspapers, contract forms, printed circulars, stationery, and other advertising material, including certificates and coupons which the headquarters offices supplied to their studios for house-to-house canvassers;

- (a) Falsely represented, through such use of the words "Gold-Tone" as a trade name and its use in the name of aforesaid corporation, together with the express representation upon such coupons, that the corporation produced, sold and distributed the more costly, genuine gold-tone photographs, finished by the use of a toning bath containing salts or chloride of gold;
- (b) Falsely described their said photographs through use in their aforesaid advertising matter of such statements as "oil painted portraits" and "colored in oil", "oil colored portrait",

The facts being that they were merely sepia prints produced from a photographic negative and thereafter—in the case of a major portion—tinted or colored; and they did not conform to the public's understanding of "oil colored portraits" and did not constitute such portraits as understood by artists who paint pictures or photographers who color photographs;

- (c) Falsely represented, as aforesaid, that their said photographs had a value of \$5 or \$5.50 through such statements as "Gold-Tone Finish \$2.75 reg. \$5 value", "offered for \$2.95 reg. \$5.50 value" and "formerly \$5 value"; when in fact they were regularly and consistently sold for \$2.75 and \$2.95; and
- (d) Falsely represented offer of their said products as a "special advertising offer" in their said coupons or certificates; notwithstanding the fact their