

IN THE MATTER OF
JACOB COLON AND EVELYN COLON, TRADING AS E. & J.
DISTRIBUTING CO.

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

Docket 5368. Complaint, Aug. 18, 1945—Decision, May 15, 1950

Where two individuals engaged in the competitive interstate sale and distribution of household merchandise, novelties, toiletries, and other articles; in promoting the sale of their products—

Distributed to prospective sales representatives throughout the United States advertising or sales circulars which contained pictorial and descriptive matter with respect to certain articles offered by them as compensation for the sale of their products, and depictions and descriptive matter as to articles offered for sale, and included also a list of items and the prices thereof, and adjacent thereto a pull card for use in accordance with a plan whereby the legend concealed under the tab selected and pulled by the customer determined the price he paid and the article he received; and the sales representative or operator collected and remitted the amounts thus called for; distributed to his customers the merchandise thus secured by them; and was compensated in merchandise or cash; and thereby,

Supplied to and placed in the hands of others the means of conducting lotteries in the sale of their merchandise through the aforesaid typical scheme, through which there was determined by the fortune of the draw which article each purchaser received and the amount of money he was required to pay, and whether he received an article which was of appreciable utility or value to him or met with his desires for other reasons; contrary to an established public policy of the United States Government;

With the result that many persons were attracted by their sales methods and by the element of chance involved therein, and were induced thereby to buy and sell said merchandise in preference to that offered and sold by competitors who do not use such or any equivalent methods; and with tendency and capacity to divert trade in commerce unfairly from aforesaid competitors:

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

As respects the fact that the pull tab device involved in the foregoing proceeding contained a "notice to purchasers," which advised them that the price of an article was printed on the back of each slip and that they were privileged, if they wished to buy the article, to pay the holder of the book the price shown, and that they were not required to buy the article if they did not want it, it appearing that said notice was not ordinarily called to the attention of the prospective purchaser by the sales representative; that the successful operation of the sales plan was dependent upon the ability of the representa-

tive to sell all the articles listed; that only in special cases were partial orders forwarded and that no instance appeared in which a person who pulled one of the tabs refused to accept or pay for the merchandise designated thereon; and that respondent's instructions to representatives contained no provision for such a contingency, but, on the contrary, contemplated that all of the articles listed should be sold;

The Commission found as a practical matter that the so-called notice to purchasers had no substantial effect upon the operation of the sales plan and did not serve to remove the lottery element from their sales method.

Before *Mr. James A. Purcell*, trial examiner.

Mr. J. W. Brookfield, Jr., for the Commission.

Mr. Armen D. Anderson, Jr., and *Mr. Arthur D. Herrick*, of New York City, for respondents.

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 Jacob Colon and Evelyn Colon, individuals, and trading as E. & J. Distributing Co., 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 interest of the public, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondents, Jacob Colon and Evelyn Colon, are individuals trading and doing business as E. & J. Distributing Co., with their office and principal place of business located at 313-15 East Thirteenth Street in the city of New York, N. Y. The respondents are now, and for more than 1 year last past have been, engaged in the sale and distribution of household merchandise, novelties, and other articles of merchandise in commerce between and among the various States of the United States and in the District of Columbia. Respondents cause and have caused said merchandise, when sold, to be shipped and transported from their place of business in the State of New York to purchasers thereof at their respective points of location in various States of the United States other than New York, and in the District of Columbia. There is now, and has been for more than 1 year last past, a course of trade by respondents in such merchandise in commerce between and among the various States of the United States and in the District of Columbia.

In the course and conduct of their said business, respondents are and have been in competition with other individuals and firms and with corporations engaged in the sale and distribution of similar

articles of merchandise in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of their business as described in paragraph 1 hereof, respondents sell and distribute said articles of merchandise by means of a game of chance, gift enterprise, or lottery scheme. Respondents cause to be distributed to representatives and salesmen and prospective representatives and salesmen certain advertising literature including a sales circular. Respondents' merchandise is distributed to the purchasers thereof in the following manner:

A portion of said sales circular consists of a list on which there are designated a number of items of merchandise and the prices thereof. Adjacent to the list is printed and set out a device commonly called a pull card. Said pull card consists of a number of tabs, under each of which is concealed the name of an article of merchandise and the price thereof. The name of the article of merchandise and the price thereof are so concealed that purchasers, or prospective purchasers, of the tabs or chances are unable to ascertain which article of merchandise they are to receive or the price which they are to pay until after the tab is separated from the card. When a purchaser has detached the tab and learned what article of merchandise he is to receive and the price thereof, his name is written on the list opposite the named article of merchandise. Some of said articles of merchandise have purported and represented retail values greater than the prices designated for them, but are distributed to the consumer for the price designated on the tab which he pulls. The apparent greater values of some of said articles induces members of the purchasing public to purchase the tabs or chances in the hope that they will receive articles of merchandise of far greater value than the designated prices to be paid for same. The fact as to whether a purchaser of one of said pull card tabs receives an article of greater value than the price designated for same on such tab, which of said articles of merchandise a purchaser is to receive, and the amount of money which a purchaser is required to pay, are determined wholly by lot or chance.

When the person or representative operating the pull card has succeeded in selling all of the tabs or chances, collected the amounts called for, and remitted the same sums to the respondents, the said respondents thereupon ship to said representative the merchandise designated on said card, together with a premium for the representative as compensation for operating the pull card and selling the said merchandise. Said operator delivers the merchandise to the purchasers of tabs from said pull cards in accordance with the list filled out when the tabs were detached from the pull card.

Respondents sell and distribute various assortments of said merchandise and furnish various pull cards for use in the sale and distribution of such merchandise by means of a game of chance, gift enterprise, or lottery scheme. Such plans or methods vary in detail, but the above-described plan or method is illustrative of the principle involved.

PAR. 3. The persons to whom respondents furnish the said pull cards use the same in purchasing, selling, and distributing respondents' merchandise in accordance with the aforesaid sales plan. Respondents thus supply to and place in the hands of others the means of conducting lotteries in the sale of their merchandise in accordance with the sales plan hereinabove set forth. The use by respondents of said method in the sale of their merchandise and the sale of such merchandise by and through the use thereof and by the aid of said method is a practice of a sort which is contrary to an established public policy of the Government of the United States.

PAR. 4. The sale of merchandise to the purchasing public in the manner above alleged involves a game of chance, or the sale of a chance to procure an article of merchandise at a price less than the apparent normal retail price thereof. Many persons, firms, and corporations who sell or distribute merchandise in commerce in competition with the respondents, as above described, and are thereby induced to buy and sell respondents' merchandise in preference to merchandise offered for sale and sold by said competitors of respondents who do not use the same or an equivalent method. The use of said methods by respondents, because of said game of chance, has the tendency and capacity to unfairly divert trade in commerce between and among the various States of the United States and in the District of Columbia to respondents from the said competitors who do not use the same or equivalent methods.

PAR. 5. 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 August 18, 1945, issued and subsequently served its complaint in this proceeding upon the respondents, Jacob Colon and Evelyn Colon, individuals trading as E. & J. Distributing Co., charging said respondents with the use of unfair methods

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of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of the provisions of that act. After the filing by respondents of their joint answer to the complaint, testimony and other evidence in support of and in opposition to the allegations of the complaint were introduced before a trial examiner of the Commission theretofore designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the complaint, respondents' answer thereto, testimony, and other evidence, recommended decision of the trial examiner, briefs in support of the complaint and in opposition thereto, and oral arguments; 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, Jacob Colon and Evelyn Colon, are individuals trading and doing business as E. & J. Distributing Co., with their office and principal place of business located at 313-315 East Thirteenth Street in the city of New York, N. Y.

PAR. 2. The respondents are now, and for more than 1 year last past have been, engaged in the sale and distribution of household merchandise, novelties, toiletries, and other articles of merchandise, in commerce between and among the various States of the United States and in the District of Columbia, and have caused said merchandise, when sold, to be shipped and transported from their place of business in the State of New York to purchasers thereof at their respective points of location in various States of the United States other than New York, and in the District of Columbia.

PAR. 3. In the course and conduct of their business respondents are, and have been, in competition with other individuals, firms, and corporations engaged in the sale of similar articles of merchandise in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. In promoting the sale of their merchandise respondents have distributed advertising or sales circulars to prospective sales representatives located at various points throughout the United States. These circulars contain pictorial representations and descriptive matter with respect to certain articles of merchandise offered by respondents as compensation for the sale of their products and also pictorial representations and descriptive matter as to certain of the articles of merchandise offered for sale.

A portion of said sales circular consists of a list in which there are designated a number of items of merchandise and the prices thereof. Adjacent to the list is printed and set out a device commonly called a pull card, consisting of a number of tabs under each of which are concealed the name of an article of merchandise and the price thereof. The name of the article of merchandise and its price are so concealed that purchasers or prospective purchasers of the tabs or chances are unable to ascertain which article of merchandise they are to receive and the price which they are to pay, until after the tab is separated from the card. When a purchaser has detached a tab from such pull card and learned what article of merchandise he is to receive and the price thereof, his name is written on the list opposite the named article of merchandise.

When the person or representative operating the pull card has succeeded in selling all the tabs or chances, collected the amounts called for and remitted the same sums to the respondents, respondents thereupon ship to such representative the merchandise designated on the card, together with a premium or premiums for the representative as compensation for operating the pull card and selling the merchandise. If the representative so desires, he is permitted to deduct from the amount of money remitted a special cash premium in lieu of the merchandise premium. The operator then delivers the merchandise to purchasers of the tabs in accordance with the list which was filled out at the time the tabs were detached by the purchasers.

PAR. 5. The particular article of merchandise each purchaser is to receive and the amount of money which he is required to pay are determined wholly by a game of chance, and whether the purchaser receives an article which is of appreciable utility or value to him, or meets with his desires for other reasons, depends on the fortune of the draw. Respondents sell and distribute various assortments of merchandise and furnish pull cards varying in detail for use in the sale and distribution of their merchandise by means of a game of chance, gift enterprise, or lottery scheme, but the foregoing is illustrative of the principle involved.

The persons to whom respondents furnish the pull cards use the same in purchasing, selling, and distributing respondents' merchandise in accordance with the aforesaid sales plan. Respondents thus supply to and place in the hands of others the means of conducting lotteries in the sale of their merchandise, and the sale of such merchandise by and through the use thereof and by the aid of such method is a practice of a sort which is contrary to an established public policy of the Government of the United States.

PAR. 6. In connection with the pull tab device, the following reading matter appears:

NOTICE TO PURCHASERS—On the back of each slip is printed the price of an article. If after deliberation you decide that you want to buy the article pay the holder of this book the price shown on the slip. If you do not want the article you need not buy it.

The Commission finds, however, that despite this notice the articles of merchandise in fact are sold and distributed by means of the pull-card device in accordance with the sales plan described in paragraph 4 hereof. The record indicates that the notice is not ordinarily called to the attention of the prospective purchaser by the sales representative. Moreover, the successful operation of the sales plan is dependent upon the ability of the representative to sell all the articles listed inasmuch as it makes possible remittance of the required amount to respondents in order to obtain the merchandise purchased and in order for the operator to obtain the premium for the sale of the merchandise. It is only in exceptional cases that partial orders are forwarded to respondents.

The record discloses no instance in which a person who pulled one of the tabs from the card has refused to accept or pay for the merchandise designated on the tab. Moreover, in respondents' instructions to the representative which appear in the circular there is no direction as to what should be done in the event all articles of merchandise are not sold. The circular likewise omits any information as to the premium or compensation which may be obtained by the representative in the event of refusal on the part of any purchaser to accept the article listed on the tab pulled by such purchaser.

It is apparent from the instructions that the plan contemplates that all of the articles listed are to be sold. For example, the instructions contain the following:

THESE ARE THE THREE EASY STEPS TO YOUR AWARD:

1. Sell to your friends, relatives and neighbors the 24 articles of merchandise listed on this catalog.

They will be glad to buy one or more of the articles. The name and price of the article is printed plainly on each slip.

2. Collect the purchase price of each article from your friends. Prices range from 9¢ to 48¢, none higher. When all 24 articles are sold, and money is collected by you, follow step number three.

3. Send us your money order and order, advising premium you have selected. Detach and fill out order blank, mail it to us with the \$10.18 you have collected plus whatever extra charge on premium you have selected.

The part of the circular designed to be detached for use by the representative as an order blank reads, in part :

After you have sold the 24 articles of merchandise and collected \$10.18 fill out this order blank, stating the correct number of premium you have selected. Also print your name and address plainly, and mail it to us.

The E. & J. Distributing Co., 313-15 E. 13th St., New York 3, N. Y.

GENTLEMEN : Please ship at once all charges prepaid, the 24 articles of merchandise I sold amounting to \$10.18 and one of the valuable premiums.

The Commission therefore finds that as a practical matter the so-called notice to purchasers has no substantial effect upon the operation of the sales plan and that it does not serve to remove the lottery element from respondents' sales method.

PAR. 7. Among the individuals, partnerships, and corporations engaged in the sale and distribution of merchandise in competition with respondents are those who have not adopted or used methods involving a game of chance or method opposed to public policy. Many persons have been attracted by respondents' sales method and by the element of chance involved therein and have been induced thereby to buy and sell respondents' merchandise in preference to merchandise offered for sale and sold by those competitors of respondents who do not use the same or any equivalent method. The use by respondents of their sales method has the tendency and capacity to divert trade in commerce unfairly from said competitors.

CONCLUSION

The aforesaid acts and practices of respondents as herein found are all to the prejudice and injury of the public and respondents' competitors and constitute unfair methods of competition in commerce and unfair 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, the answer of respondents, 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, recommended decision of the trial examiner, briefs in support of and in opposition to the complaint, and oral argument; and the Commission having made its findings as to the facts and its conclusion that the respondents named

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below have violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondents, Jacob Colon and Evelyn Colon, individuals trading as E. & J. Distributing Co., or trading under any other name or designation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of household merchandise, novelties, toiletries, or any other articles of merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Supplying to or placing in the hands of others pull cards or any other device or devices which are to be used, or may be used, in the sale or distribution of respondents' merchandise to the public by means of a game of chance, gift enterprise, or lottery scheme.

(2) Shipping, mailing, or transporting to agents or distributors, or to members of the public, pull cards or any other device or devices which are to be used, or may be used, in the sale or distribution of respondents' merchandise to the public by means of a game of chance, gift enterprise, or lottery scheme.

(3) Selling, or otherwise disposing of, any merchandise by means of a game of chance, gift enterprise, or lottery scheme.

It is further ordered, That 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.

Commissioner Mason concurring in the findings as to the facts and conclusion, but not concurring in the form of order to cease and desist, for the reasons stated in his opinion concurring in part and dissenting in part in Docket 5203—Worthmore Sales Co.¹

¹ See 46 F. T. C. 606 at 622 et seq.

Syllabus

IN THE MATTER OF

UNIVERSAL RADIO-VISION TRAINING CORP. 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 5626. Complaint, Dec. 7, 1948—Decision, May 15, 1950

Where a corporation, three officers thereof, and its "Superintendent of Instruction," who controlled and formulated its advertising policy, including the acts and practices below described; engaged in conducting correspondence courses of instruction for home study in the theory of radio and television, and in promoting the sale thereof through field agents who personally approached their prospects, and through newspapers published in California, Kansas, and Louisiana, and others published and circulated throughout the United States, and in leaflets, circulars, form letters and cards, printed contracts, and other mediums; in their said advertising, directly and by implication—

- (a) Represented that said corporation was a successor of the American Institute of Technology and had been in continuous operation since 1934; the facts being there was no connection whatever between said American Institute of Technology of Detroit, and their school, which was incorporated in California in 1946;
- (b) Represented that any one with a liking for radio, electronics, and television might become part of said industry and be assured of high-paying positions therein; that men and women from 17 to 50 might successfully train for and become certified technicians in the electronic industry; and that there should be millions of high-paid jobs for personnel trained in electronics;

The facts being that while the study of electronics and allied subjects requires a minimum of high-school training and special aptitude, they enrolled numerous individuals who were in nowise qualified, as the soliciting individuals knew; their course was confined to the teaching of theory and was wholly insufficient properly to prepare and train one as a technician in the field concerned, in which practical training and experience is required to qualify anyone; and the representation as to prospective public jobs available not only grossly exaggerated the number, but misleadingly implied that their graduates would be qualified for any position in the electronic field at a higher salary;

- (c) Represented that the course included the building of testing equipment for the purpose of performing home laboratory experiments, and that the equipment therefor was furnished by them; when in fact they furnished no equipment of any kind to students other than the 100 lessons which comprised the course; and

Where said corporation and individuals—

- (d) Represented personally through their field agents and officers that graduates might earn from \$125 to \$325 weekly and up to \$700 a month in the television industry; and that their course properly prepared students to obtain and hold lucrative positions in the electronics industry, including broadcasting, public address systems, and sound;

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The facts being that the electronic industry would not employ persons who had not had practical training or experience of from 3 to 5 years; no graduate of their school could qualify as other than an apprentice; and the wages paid to apprentice employees were substantially less than the minimum amount represented by them as being paid to graduates;

- (e) Represented as aforesaid that graduates became certified radio technicians and that they were qualified to make such certification; and that graduates might be certified as radio technicians by the Federal Communications Commission through their branch offices;

The facts being that they had not been empowered by any State or national or educational organization to certify their students as technicians, nor did said Commission so certify graduates; said students did not become technicians in radio electronics; and the diploma issued to that effect was not recognized in the industry as evidence of proper qualification therefor; and

- (f) Falsely represented that the Bell Telephone Co. and other large electronic organizations employed graduates of their school at the beginning salary of \$500 a month;

The fact being that neither said company nor any other firm engaged in the radio, television, and electronics industry was employing their graduates; all employees engaged in the electronic industry are subject to the rules and regulations established by the trade unions in said industry; and generally no persons can be employed who have not had from 3 to 5 years apprentice training in said trade unions;

With effect of misleading and deceiving many members of the purchasing public into the erroneous belief that such representations were true, and thereby causing a substantial portion of the public to purchase their said course of instruction, and with capacity and tendency so to mislead and deceive:

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

Mr. William L. Pencke for the Commission.

Mr. Frederick I. Frischling, of Los Angeles, Calif., for respondents.

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 Universal Radio-Vision Training Corp., a corporation, and Earl G. Hopkins, Hiram W. Haueter, and Charles L. Turly, individually and as officers of Universal Radio-Vision Training Corp., and Benjamin P. Scott, individually and as superintendent of instruction of said 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. Respondent, Universal Radio-Vision Training Corp., is a California corporation, with its office and principal place of busi-

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ness located at 1025-7 North Highland Avenue, Hollywood, Calif. Respondents, Earl G. Hopkins, Hiram W. Haueter, and Charles L. Turly, are individuals and officers of the corporate respondent, Universal Radio-Vision Training Corp., and as such officers, together with Benjamin P. Scott, acting as superintendent of instruction, they are responsible for and control and formulate and have controlled and formulated the advertising policies of said corporate respondent, including the acts and practices hereinafter described. The business address of each of the said individual respondents is the same as that shown above for the corporate respondent.

Respondents are now, and since March 14, 1946, have been engaged in conducting a correspondence school, and in selling and distributing in commerce between and among the various States of the United States and in the District of Columbia courses of instruction for home study in the theory of radio and television. They have caused and are causing printed courses of instruction in said subjects, when sold, to be transported from their place of business in the State of California to student enrollees, who are the purchasers thereof, at their respective addresses in other States of the United States and in the District of Columbia.

Respondents maintain and at all times mentioned herein have maintained a course of trade in said courses of instruction in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of their business in commerce as aforesaid, and for the purpose of enrolling prospective students and thereby promoting the sale of their said courses of instruction, respondents, through field agents, who personally approach their prospects, and also by means of advertisements inserted and caused by respondents to be inserted in newspapers published in the States of California, Kansas, Louisiana, and other newspapers published and circulated throughout the United States, and in leaflets, circulars, form letters and card, printed contracts and other mediums, distributed through the United States mails, have made and are making numerous false, deceptive, and misleading statements and representations with respect to the advantages and benefits which the purchasers of their said course of instruction could expect to receive. Among and typical of such false and misleading statements and representations so used by the respondents are the following:

History of Universal Radio-Vision Training Corporation (formerly American Institute of Technology, Detroit, Michigan).

American Institute of Technology founded by B. P. Scott in 1934 and licensed by State of Michigan in 1935.

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Hundreds of students have been trained by American Institute of Technology and placed in nearly every broadcasting station in Michigan, as well as several with State police net in Michigan and other States . . .

Reopened in Hollywood as Universal Training Corporation in February, 1946 . . .

If you like RADIO, ELECTRONICS and TELEVISION—and are anxious to secure a better job with MORE PAY—this letter will interest you . . . YOU, TOO, may become a part of this new and fast-growing industry, an industry which should offer millions of HIGH PAID jobs to personnel trained in this work.

We are selecting MEN and WOMEN NOW to be trained as certified radio, electronic and television technicians.

Wanted! Men and women 17 to 50, to train now as certified technicians in F. M. radio and television.

Training will not interfere with your present position.

You learn by building your own testing equipment, and by performing 50 home laboratory experiments. Equipment furnished.

Television! Today's most promising new field of opportunity, offers excellent pay for trained personnel. Wanted, immediately, men and women to train now as certified radio and television technicians—broadcasting, public address systems and sound.

Through personal representations made by field agents and officers of respondent corporation, respondents further represent that graduates may earn from \$125 to \$325 weekly, and up to \$700 a month in the television industry; that students having enrolled and subscribed for said course of study may discontinue the same at any time without being required to pay the balance of tuition fees which may be due; that graduates may be certified as radio technicians by the Federal Communications Commission through their branch offices; that the Bell Telephone Co. and other large electronic organizations employ graduates of respondents' school at a beginning salary of \$500 a month; that respondents' school gives more actual training in 9 months than may be received at the Massachusetts Institute of Technology in 4 years; that graduates become certified radio technicians and that respondents are qualified to make such certification.

PAR. 3. Through the use of the statements and representations hereinabove set forth, and many others of similar import and effect, respondents represent, directly and by implication, that the corporate respondent, Universal Radio-Vision Training Corp., is a successor of the American Institute of Technology and has been in continuous operation since 1934; that anyone with a liking for radio, electronics, and television may become part of said industry and be assured of high paid positions therein; that men and women from the ages of 17 to 50 may successfully train for and become certified technicians in the electronic industry; that the studies may be pursued without interfering with any other work done by students, and that the course of study includes the building of testing equipment for the purpose of

performing home laboratory experiments, and the equipment therefor is furnished by respondents; that graduates may be assured of earning anywhere from \$125 a week to \$700 a month in the television industry; that said course of study properly prepares said students to enable them to obtain and hold lucrative positions in the electronics industry, including broadcasting, public address systems, and sound; that students may discontinue said course of study at any time without being obligated to pay the balance of the tuition fee; that respondents' school is recognized as having authority to certify its graduates as radio technicians, and that the Federal Communications Commission, through its branch offices, certifies respondents' graduates as radio technicians; that prominent firms in the electronic and radio industry employ respondents' graduates at salaries beginning at \$500 a month; that said course of study is superior to the work offered by Massachusetts Institute of Technology, and that students may be trained in less time through respondents' course than by attending standard residence schools.

PAR. 4. The aforesaid statements and representations are grossly exaggerated, false, and misleading. In truth and in fact, respondents' course in electronics, radio, and television is confined to the teaching of theory in said subject and is wholly insufficient to properly prepare and train one as a technician in said fields. Substantial practical training and experience is required to qualify anyone as a technician and respondents' course of study can offer no more than a fundamental theoretical knowledge of electronics.

The representation that respondents' business was established in 1934 as the American Institute of Technology and implying that the school has been operated continuously, is wholly false and misleading. There is no connection whatever between said American Institute of Technology of Detroit, Mich., and respondents' present school, which was incorporated in the State of California in 1946.

The representation that there should be millions of high paid jobs to personnel trained in electronics is not only grossly exaggerated with respect to the number of jobs actually available, but also misleadingly implies that respondents' graduates would be qualified for any position in the electronic field at a high salary.

Respondents' students do not become certified technicians in radio electronics, and the diploma issued to that effect is not recognized in the electronic industry as evidence of proper qualification for certified radio technicians; and respondents have not been empowered by any State or national or educational organization to certify their students as technicians. Neither will the Federal Communications Commis-

sion, either directly or through any branch office, certify any of respondents' graduates as radio technicians.

The representation that said course of study may be pursued during the spare time of the student and will not interfere with other activities and may be completed within 2 years time is unwarranted and misleading. The subject of electronics requires not only special aptitude, but is so intricate that no average student could possibly master said subject by studying in his or her spare time within a period of 2 years and become qualified to hold a position as radio technician or similar position requiring a thorough knowledge of electronics.

The representation that equipment is furnished for home laboratory experiments is false in that no equipment of any kind is furnished to students, other than the 100 lessons comprising the course.

The representations that students may earn from \$125 weekly, to \$700 monthly, are false. The electronic industry will not employ persons who have not had practical training or experience of from 3 to 5 years, and no graduate of respondents' school could qualify as other than an apprentice; and the wages paid to apprentice employees are substantially less than the minimum amounts represented by the respondents as being paid to graduates. Neither the Bell Telephone & Telegraph Co., nor any other firm engaged in the radio, television, and electronics industry is employing respondents' graduates. Moreover, all employees engaged in the electronic industry are subject to the rules and regulations established by the trade unions in said industry, and generally no persons can be employed who have not had from 3 to 5 years' apprentice training in said trade unions. Although the study of electronics and allied subjects requires a minimum of high-school training and special aptitude, respondents have enrolled numerous individuals who are in no wise qualified, either by education or aptitude, to pursue said course, respondents knowing, at the time of soliciting said students, that they had no such qualifications.

PAR. 5. The statements, representations, and implications made and caused to be made by respondents, as set forth herein, have had and now have the tendency and capacity to, and do, mislead and deceive many members of the purchasing public into the erroneous and mistaken belief that such statements, representations, and implications are true, and because of such erroneous and mistaken belief, cause a substantial portion of the public to purchase respondents' said course of instruction.

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

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on December 7, 1948, issued and subsequently served its complaint in this proceeding on the respondents named in the caption hereof, charging them with the use of unfair and deceptive acts and practices in commerce within the intent and meaning of said act. After the issuance of said complaint and the filing of respondents' answer thereto, the Commission, by order entered herein, granted respondents' motion for permission to withdraw their answer and substitute in lieu thereof an answer admitting all of the material allegations of facts set forth in the complaint and waiving all intervening procedure and further hearings 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 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, Universal Radio-Vision Training Corp., is a California corporation, with its office and principal place of business located at 1025-7 North Highland Avenue, Hollywood, Calif. Respondents Earl G. Hopkins, Hiram W. Haueter, and Charles L. Turley are individuals and officers of the corporate respondent, Universal Radio-Vision Training Corp., and as such officers, together with Benjamin P. Scott, acting as superintendent of instruction, they are responsible for and control and formulate and have controlled and formulated the advertising policies of said corporate respondent, including the acts and practices hereinafter described. The business address of each of the said individual respondents is the same as that shown above for the corporate respondent.

Respondents are now, and since March 14, 1946, have been, engaged in conducting a correspondence school and in selling and distributing in commerce between and among the various States of the United States and in the District of Columbia courses of instruction for home study in the theory of radio and television. They have caused and are causing printed courses of instruction in said subjects, when sold, to be transported from their place of business in the State of California to student enrollees, who are the purchasers thereof, at their respective

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addresses in other States of the United States and in the District of Columbia.

Respondents maintain and at all times mentioned herein have maintained a course of trade in said courses of instruction in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of their business in commerce as aforesaid, and for the purpose of enrolling prospective students and thereby promoting the sale of their said course of instruction, respondents, through field agents, who personally approach their prospects, and also by means of advertisements inserted and caused by respondents to be inserted in newspapers published in the States of California, Kansas, and Louisiana, and other newspapers published and circulated throughout the United States, and in leaflets, circulars, form letters and cards, printed contracts, and other mediums, distributed through the United States mails, have made and are making numerous false, deceptive, and misleading statements and representations with respect to the advantages and benefits which the purchasers of their said course of instruction could expect to receive. Among and typical of such false and misleading statements and representations so used by the respondents are the following:

History of Universal Radio-Vision Training Corporation (formerly American Institute of Technology, Detroit, Michigan).

American Institute of Technology founded by B. P. Scott in 1934 and licensed by State of Michigan in 1935.

Hundreds of students have been trained by American Institute of Technology and placed in nearly every broadcasting station in Michigan, as well as several with State police net in Michigan and other States . . .

Reopened in Hollywood as Universal Training Corporation in February, 1946 . . .

If you like RADIO, ELECTRONICS and TELEVISION—and are anxious to secure a better job with MORE PAY—this letter will interest you . . . YOU, TOO, may become a part of this new and fast-growing industry, an industry which should offer millions of HIGH PAID jobs to personnel trained in this work.

We are selecting MEN and WOMEN NOW to be trained as certified radio, electronic and television technicians.

Wanted! Men and women 17 to 50, to train now as certified technicians in F. M. radio and television.

You learn by building your own testing equipment, and by performing 50 home laboratory experiments. Equipment furnished.

Television! Today's most promising new field of opportunity, offers excellent pay for trained personnel. Wanted, immediately, men and women to train now as certified radio and television technicians—broadcasting, public address systems and sound.

Through personal representations made by field agents and officers of respondent corporation, respondents further represent that graduates may earn from \$125 to \$325 weekly, and up to \$700 a month in the television industry; that graduates may be certified as radio technicians by the Federal Communications Commission through their branch offices; that the Bell Telephone Co. and other large electronic organizations employ graduates of respondents' school at a beginning salary of \$500 a month; that graduates become certified radio technicians and that respondents are qualified to make such certification.

PAR. 3. Through the use of the statements and representations hereinabove set forth, and many others of similar import and effect, respondents represent, directly and by implication, that the corporate respondent, Universal Radio-Vision Training Corp., is a successor of the American Institute of Technology and has been in continuous operation since 1934; that anyone with a liking for radio, electronics, and television may become part of said industry and be assured of high-paid positions therein; that men and women from the ages of 17 to 50 may successfully train for and become certified technicians in the electronic industry; that the course of study includes the building of testing equipment for the purpose of performing home laboratory experiments, and the equipment therefor is furnished by respondents; that graduates may be assured of earning anywhere from \$125 a week to \$700 a month in the television industry; that said course of study properly prepares said students to enable them to obtain and hold lucrative positions in the electronics industry, including broadcasting, public address systems, and sound; that respondents' school is recognized as having authority to certify its graduates as radio technicians, and that the Federal Communications Commission, through its branch offices, certifies respondents' graduates as radio technicians; and that prominent firms in the electronic and radio industry employ respondents' graduates at salaries beginning at \$500 a month.

PAR. 4. The aforesaid statements and representations are grossly exaggerated, false, and misleading. In truth and in fact, respondents' course in electronics, radio, and television is confined to the teaching of theory in said subject and is wholly insufficient to properly prepare and train one as a technician in said field. Substantial practical training and experience is required to qualify anyone as a technician and respondents' course of study can offer no more than a fundamental theoretical knowledge of electronics.

The representation that respondents' business was established in 1934 as the American Institute of Technology and implying that the school has been operated continuously is wholly false and misleading.

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There is no connection whatever between said American Institute of Technology of Detroit, Mich., and respondents' present school, which was incorporated in the State of California in 1946.

The representation that there should be millions of high-paid jobs to personnel trained in electronics is not only grossly exaggerated with respect to the number of jobs actually available, but also misleadingly implies that respondents' graduates would be qualified for any position in the electronic field at a high salary.

Respondents' students do not become certified technicians in radio electronics, and the diploma issued to that effect is not recognized in the electronic industry as evidence of proper qualification for certified radio technicians; and respondents have not been empowered by any State or national or educational organization to certify their students as technicians. Neither will the Federal Communications Commission, either directly or through any branch office, certify any of respondents' graduates as radio technicians.

The representation that equipment is furnished for home laboratory experiments is false in that no equipment of any kind is furnished to students, other than the 100 lessons comprising the course.

The representations that students may earn from \$125 weekly to \$700 monthly are false. The electronic industry will not employ persons who have not had practical training or experience of from 3 to 5 years, and no graduate of respondents' school could qualify as other than an apprentice; and the wages paid to apprentice employees are substantially less than the minimum amounts represented by the respondents as being paid to graduates. Neither the Bell Telephone & Telegraph Co. nor any other firm engaged in the radio, television, and electronics industry is employing respondents' graduates. Moreover, all employees engaged in the electronic industry are subject to the rules and regulations established by the trade-unions in said industry, and generally no persons can be employed who have not had from 3 to 5 years' apprentice training in said trade-unions. Although the study of electronics and allied subjects requires a minimum of high-school training and special aptitude, respondents have enrolled numerous individuals who are in nowise qualified, either by education or aptitude, to pursue said course, respondents knowing, at the time of soliciting said students, that they had no such qualifications.

PAR. 5. The statements, representations, and implications made and caused to be made by respondents, as set forth herein, have had and now have the tendency and capacity to, and do, mislead and deceive many members of the purchasing public into the erroneous and mistaken belief that such statements, representations, and implications

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are true, and because of such erroneous and mistaken belief, cause a substantial portion of the public to purchase respondents' said course of instruction.

CONCLUSION

The aforesaid acts and practices of respondents, 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 and the answer of the respondents thereto, in which answer the respondents admitted all of the material allegations of facts set forth in the complaint and waived all intervening procedure and further hearings as to said facts, and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the corporate respondent, Universal Radio-Vision Training Corp., a California corporation, and its officers, agents, representatives, and employees, and the individual respondents, Earl G. Hopkins, Hiram W. Haueter, Charles L. Turly, and Benjamin P. Scott, and their 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, do forthwith cease and desist from representing by any means, directly or indirectly:

(1) That their business of conducting a correspondence school was established in 1934, or in any other year prior to that in which it was actually established;

(2) That their correspondence school is a successor to, or has any connection with, the American Institute of Technology, of Detroit, Mich.

(3) That the course of study and instruction sold by them is sufficient to properly prepare and train men and women as technicians in the electronic industry;

(4) That equipment for performing home laboratory experiments is furnished to students;

(5) That graduates of their correspondence school become certified radio technicians, or that respondents have any authority to certify graduates of their correspondence school as radio technicians;

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(6) That the Federal Communications Commission, either directly or through any branch office, will certify graduates of respondents' correspondence school as radio technicians;

(7) That graduates of their correspondence school are qualified to fill highly paid positions in the electronic industry;

(8) That graduates of their correspondence school may earn amounts in excess of the wages currently being paid in the electronic industry to apprentice employees;

(9) That prominent firms in the electronic industry employ graduates of respondents' correspondence school.

It is further ordered, That 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.

Complaint

IN THE MATTER OF

NATIONAL TEA COMPANY AND NATIONAL TEA
COMPANY—STANDARD GROCERY DIVISION

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SUB-SEC. (f) OF SEC. 2 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914,
AS AMENDED BY AN ACT APPROVED JUNE 19, 1936

Docket 5648. Complaint, Apr. 7, 1949—Decision, May 15, 1950

Where a corporation engaged in the operation of some 700 retail grocery stores in Chicago, and 48 stores in Indianapolis, and in purchasing in interstate commerce, as thus engaged, from various sellers numerous food and grocery items for resale, in competition with others similarly engaged—

Adopted and pursued purchasing policies and practices which were knowingly designed and intended to induce, and which did induce, from a number of sellers, discriminatory prices favorable to it in its purchases of the aforesaid merchandise, and which included, as illustrative, its advertised "Multi-Million Dollar Profit-Sharing Plan," pursuant to which (and following prior arrangements solicited from a number of its sellers), it issued books of coupons of a designated cash value when used and applied to the purchase of the merchandise depicted thereon, which it redeemed and delivered to the respective sellers whose merchandise had been concerned in said transactions, so that the latter might reimburse it through paying to it the coupons' designated cash value;

With the result that it purchased the food and grocery items involved therein at prices below the sellers' customary prices, and was enabled to and did resell said merchandise below the retail prices usually obtained by it and by its competitors;

Effect of which discriminations in price, so induced and received by it, was and might be to substantially lessen competition in the line of commerce in which said sellers and its competitors were engaged, and to injure, destroy, or prevent competition with said sellers and with it in the resale of food and grocery items and similar merchandise of like grade and quality:

Held, That such acts and practices, under the circumstances set forth, constituted violations of Sec. 2 (f) of the Clayton Act, as amended by the Robinson-Patman Act.

Mr. Eldon P. Schrup for the Commission.

Kirkland, Fleming, Green, Martin & Ellis, of Chicago, Ill., for respondents.

COMPLAINT

The Federal Trade Commission having reason to believe that the parties respondent named in the caption hereof and hereinafter more particularly designated and described, since June 19, 1936, have violated and are now violating the provisions of section 2 of the Clayton Act, as amended by the Robinson-Patman Act approved June 19, 1936