

IN THE MATTER OF
ANDREW G. CHOLICK ET AL. TRADING AS WESTERN
TRAINING SERVICE

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

Docket 5821. Complaint, Oct. 24, 1950—Decision, Feb. 14, 1952

Where three partners engaged in the interstate sale and distribution of correspondence courses to prepare students for examination for certain Government Civil Service positions; in promoting the sale of their courses through newspaper advertisements and postal cards mailed to post office and rural route box holders, and through traveling agents—

- (a) Represented that persons completing their course and passing a civil service examination were assured of positions in the United States Civil Service, through such statements as "Men and Women Wanted to Prepare for Civil Service Jobs, Act Now", "Civil Service Men, Women, 18 to 50, Many Opportunities" and, after listing numerous positions, "A Few of the Hundreds of Different Kinds of Positions";

The facts being that while numerous vacancies may exist generally in said service, the taking of their course of study and the passing of a civil service examination does not assure employment, which is subject to veteran's preference, availability of eligibles in various districts, and other conditions and uncertainties;

- (b) Misleadingly represented that a common school or eighth grade education was usually sufficient to qualify for and obtain positions in the Civil Service; when in fact while such an education might be sufficient for most of the lower grade positions, for many a high school education is required, and in still others additional special training, specific physical qualification or practical experience; and,
- (c) Represented in some instances, through their agents, that the agent visited a given territory only once every two years and that unless prospective students enrolled at the time of his visit, they would have to wait two years before they would have another opportunity; notwithstanding the fact that prospective students could enroll at any time;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such representations were true and thereby induce its purchase of said correspondence courses:

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.

Other charges of the complaint were not sustained by the record: namely, that respondents through their advertising or sales agents, or both, represented and implied that said correspondence school was a branch of or connected with the Government of the United States Civil Service Commission; that respondents' representatives and agents were similarly thus connected; that respondents would continue training students until they had been placed in Government positions; that positions were permanent once an employee had served his first year of probation; that the school had on its staff former

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Government examiners; that only those with high qualifications were accepted, and that the school was under Government supervision.

Before *Mr. William L. Pack*, hearing examiner.

Mr. William L. Pencke for the Commission.

Mr. A. C. Allen and *Mr. Solon B. Clark*, of Portland, Oreg., 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 Andrew G. Cholick, A. Lawrence Cholick and Joseph J. Cholick, copartners, trading as Western Training Service, hereinafter referred to as respondents, have 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. Respondents Andrew G. Cholick, A. Lawrence Cholick and Joseph J. Cholick are individuals trading and doing business as copartners under the name and style of Western Training Service, with their office and principal place of business at 206 Panama Building, Portland, Oregon.

PAR. 2. For more than one year last past, respondents have been and are now 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 are pursued by correspondence through the medium of the United States mails. Respondents, in the course and conduct of said business, cause their said courses of study and instruction to be transported from their said place of business in the State of Oregon to, into and through States of the United States other than Oregon to the purchasers thereof in such other States. There has been at all times mentioned herein a course of trade in said courses of instructions so sold and distributed by respondents in commerce between and among the various States of the United States.

PAR. 3. In connection with the sale of said courses of study and instruction, respondents have made and are making use of printed advertising matter distributed to prospective students throughout the central and western States, and of advertisements inserted in newspapers circulated in said States, in and by which numerous representations have been made and are made in regard to said courses of study

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

TRAIN FOR CIVIL SERVICE

Permanent Employment, Vacations,
Pensions and Sick Leave Offered
By State, County, City and Federal
Civil Service. Stenographers,
Typists, Postal, Customs. Revenue,
Immigration, Veterans Adm. Clerks &
Inspectors, etc. Instruction for
these and many others may be had
from the old Licensed School
Established in 1931. For Informa-
tion address:

WESTERN TRAINING SERVICE
Box 99 % Humboldt Standard.

MEN AND WOMEN

Ages 18 to 50

GOVERNMENT POSITIONS

Thousands to be Filled

Clerks, Internal revenue
agents, railway mail clerks,
accountants, post office clerks,
mail carriers, immigration serv-
ice, custom service, veterans
administration, stenographers,
typists, storekeepers, assistant
meat inspectors; many others to
choose from
Steady employment. Instruction
now being given.

WESTERN TRAINING SERVICE
(Established 1931)
206 PANAMA BLDG. Portland 4, Or.
Send me full information.

PREPARE AT HOME FOR A**GOVERNMENT JOB**

Security. Vacations

Promotions. Pensions

Write

WESTERN TRAINING SERVICE
206 Panama Bldg. Portland 4, Ore.

PAR. 4. By means of the foregoing statements and representations and others to the same effect not herein set out, respondents represent and imply that said Western Training Service is a branch of or connected with the United States Government or the United States Civil Service Commission; that many positions in the United States Civil Service, including those specifically named in said advertisements, are vacant; that men and women are needed to fill said vacancies and that said positions may be obtained through respondents' Western Training Service.

PAR. 5. By means of oral statements and representations made by their sales agents, respondents represent and imply to prospective students and purchasers of their said courses of instruction that said representatives and sales agents are connected with the United States Government or the United States Civil Service Commission in some official capacity; that respondents will continue training students until they have been placed in Government positions; that students taking said course of training will pass a Civil Service examination and be sure of a job in the United States Civil Service; that respondents' said school is in some manner connected with the United States Government or the United States Civil Service Commission and has special contacts with said Civil Service Commission enabling said school to give advance information on examination dates and to assist students in procuring Civil Service positions; that positions are permanent once an employee had served his first year of probation; that respondents' school has on its staff former Government examiners; that an eighth grade education is sufficient to qualify for and to obtain positions in the classifications for which respondents offer training, and that not every one is signed up for such training but that only those with high qualifications are accepted; that the school is under Government supervision; that salesmen visit a given territory once every two years, and that unless prospective students enroll at the time of the salesmen's visit they will have to wait for two years before they can have another opportunity to enroll.

By means of return postal cards, listing a large number of Civil Service positions, addressed to rural route box holders, and by furnishing to prospective students and enrollees a booklet entitled "HOW TO GET A GOVERNMENT JOB," respondents and their salesmen further the impression and implication that respondents' school is connected with or authorized by the United States Government to train persons for Government positions and that said salesmen operate under some official authority.

In said sales literature and advertisements, respondents represent that their school was licensed and has been continuously operated since 1931.

PAR. 6. All of said statements, representations, and implications are grossly exaggerated, false and misleading. In truth and in fact, there is no connection whatsoever between respondents or their salesmen and the United States Government, the United States Civil Service Commission or any other agency or branch of the Government, nor does the Government supervise respondents' school. The United States Civil Service Commission does not advertise for men and women to fill Government positions or that vacancies exist in Government Service. Respondents have no power or authority to place any person in any Civil Service position, or guarantee that such person will pass Civil Service examinations by taking said courses of instruction. Respondents' representations that there are certain vacancies in the United States Civil Service and that students would continue to be trained until they pass an examination and are placed in Civil Service positions implies that such examination may be called within the near future, when in fact examinations for a number of positions listed in respondents' sales literature and advertisements may not be called for several years. Moreover, a number of positions, including guards, custom inspectors, custodians, and others, are restricted to ten-point veteran applicants. Respondents have no special contacts with the Civil Service Commission or any other branch of the Government and possess no advance information pertaining to Civil Service examinations; nor have they any information which persons interested in examinations cannot readily obtain from the Civil Service Commission, their regional offices, or local post offices. While Government positions are generally permanent, there are many circumstances under which employees may be separated from the service. Respondents have no former Government examiners on their teaching staff.

While an eighth grade education may be sufficient for most of the lower grades, a high school education is required for many positions, and still other positions require special training, special physical qualifications or experience. Respondents do not limit enrollments to persons with high qualifications but accept enrollments from all persons who are willing to purchase said courses of instruction. Prospective purchasers may purchase said courses of instruction at any time they desire and are not required to wait for a period of two years after declining to enroll on the occasion of the salesman's first visit. Respondents have not operated such school continuously since

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1931 as it was closed during the period of World War II and for some time thereafter.

PAR. 7. In the course and conduct of their business as aforesaid, respondents in soliciting enrollment make use of a printed form of contract designated "Enrollment Agreement" which contains a statement that:

I desire to secure a Civil Service appointment and should I fail to pass the first examination taken, I am to receive, without further payment, coaching UNTIL I RECEIVE MY APPOINTMENT.

Said representation is misleading in that no one may secure a Civil Service appointment through respondents' said school and continued coaching will not necessarily lead to an appointment to the Civil Service; and if a student should qualify for and pass an examination, it does not insure an appointment but may merely be the means of having said student's name placed on a register and such student may not be offered an appointment for a long time after passing said examination.

PAR. 8. The use by respondents of the statements and representations aforesaid, has had and now has the tendency and capacity to and does confuse, mislead and deceive members of the public into the erroneous and mistaken belief that such statements and representations are true, and to induce them to purchase respondents' courses of study and instruction in said commerce on account thereof.

PAR. 9. 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.

DECISION OF THE COMMISSION

Pursuant to Rule XXII of the Commission's Rules of Practice, and as set forth in the Commission's "Decision of the Commission and Order to File Report of Compliance," dated February 14, 1952, the initial decision in the instant matter of Hearing Examiner William L. Pack, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on October 24, 1950, issued and subsequently served its complaint in this proceeding upon the respondents named in the caption hereof, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the

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provisions of that Act. After the filing by respondents of their answer to the complaint, hearings were held at which testimony and other evidence in support of and in opposition to the allegations of the complaint were introduced before the above named hearing examiner, theretofore duly designated by the Commission, and such testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter the proceeding regularly came on for final consideration by the hearing examiner upon the complaint, answer, and testimony and other evidence (counsel having elected not to file proposed findings and conclusions for consideration by the hearing examiner or to argue the matter orally), and the hearing examiner, having duly considered the matter, finds that this proceeding is in the interest of the public and makes the following findings as to the facts, conclusion drawn therefrom, and order:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondents, Andrew G. Cholick, A. Lawrence Cholick and Joseph J. Cholick, were, for a number of years immediately preceding May 1, 1951, engaged in business as copartners under the name Western Training Service, with their office and principal place of business located at 206 Panama Building, Portland, Oregon. Respondents were engaged in the sale and distribution of courses of study and instruction intended for preparing students thereof for examination for certain Civil Service positions in the United States Government, such courses being pursued by correspondence through the medium of the United States mails. As indicated above, the business was discontinued in April 1951.

PAR. 2. In the course and conduct of their business, respondents caused their courses of study and instruction, when sold, to be transported from their place of business in the State of Oregon to purchasers located in various other States of the United States. During the period of time in question, respondents maintained a course of trade in their courses in commerce between and among various States of the United States.

PAR. 3. In promoting the sale of their courses of study and instruction, respondents used newspaper advertisements and also postal cards which were mailed to post office box holders and rural route box holders. When inquiries were received from prospective students, such inquiries were referred to traveling sales agents employed by respondents who proceeded to call upon the prospects and solicit the purchase of the courses of study.

One of the principal issues raised by the complaint is whether respondents have exaggerated and misrepresented the opportunities

for obtaining positions in the United States Civil Service and whether respondents have wrongfully represented that persons taking respondents' courses of study and passing Civil Service examinations were assured of employment. The postal card used by respondents contained the statement "Men and Women Wanted to Prepare for Civil Service Jobs, Act Now," and the statement "Civil Service, Men, Women, 18 to 50, Many Opportunities." After listing numerous positions in the Civil Service, the card stated that these positions were but "A Few of the Hundreds of Different Kinds of Positions." The card concluded with the statement "If you want to be ready to fill one of the thousands of Government jobs that must be filled from time to time due to deaths, retirement, and normal Government expansion, fill in the attached card and mail at once." "The newspaper advertisements were in similar vein, stating that there were "thousands" of Government positions to be filled. Like the card, the advertisements listed a number of positions and then stated that there were "Many Others to Choose From." The enrollment agreement which persons purchasing the courses were asked to sign contained, under the caption "Continuous Training Until Appointed," the following: "Should I fail to pass the first examination taken, I am to receive, without further payment, coaching until I receive my appointment."

Essentially the same representations were made to prospective students by respondents' sales agents, who stressed the availability of positions in the Civil Service and in at least some instances represented that persons purchasing respondents' courses and passing the Civil Service examinations were assured of appointment to positions.

These representations were unwarranted and misleading. While numerous vacancies may exist generally in the United States Civil Service, the taking of respondents' courses of study and passing a Civil Service examination does not assure employment, as employment is subject to veterans' preferences, the availability of eligibles in various Civil Service districts, and other conditions. Moreover, examinations for numerous positions listed in respondents' advertising material may not be called for several years, and even though a student takes and passes an examination and his name is placed upon the eligible list, an appointment may not be made for a long period of time. Also, a number of positions are open only to veterans with 10 point preference.

Respondents also represented, both in their advertising material and through their sales agents, that a common school or eighth grade education is usually sufficient to qualify for and obtain positions in the Civil Service. This representation was likewise erroneous and misleading. While an eighth grade education may be sufficient for

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most of the lower grade positions in Civil Service, a high school education is required for many positions, and still other positions require additional special training, specific physical qualifications, or practical experience.

A further representation made in some instances by respondents' sales agents to prospective purchasers was that the agent visited a given territory only once every two years and that unless prospective students enrolled at the time of the agent's visit, they would have to wait a period of two years before they would have another opportunity to enroll. There was no basis in fact for this representation, as prospective students could enroll for respondents' courses at any time they desired and were not required to wait two years or any other period of time.

PAR. 4. While the complaint contained certain charges in addition to those discussed above, such additional charges are not sustained by the record.

PAR. 5. The acts and practices of respondents, as described above, have the tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to respondents' school and its courses of study and instruction and with respect to positions in the United States Civil Service, and the tendency and capacity to cause such portion of the public to purchase respondents' courses as a result of the erroneous and mistaken belief so engendered.

CONCLUSION

The acts and practices of respondents as hereinabove set out are all to the prejudice 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

It is ordered, That the respondents, Andrew G. Cholick, A. Lawrence Cholick and Joseph J. Cholick, individually and as co-partners trading under the name Western Training Service, or under any other name, and their representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of courses of study and instruction, do forthwith cease and desist from representing, directly or by implication:

1. That persons completing respondents' courses and passing a Civil Service examination are assured of positions in the United States Civil Service.

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2. That an eighth grade education is usually sufficient to qualify for and obtain Civil Service positions, unless such representation be limited to positions in the lower grades.

3. That unless prospective students enroll for respondents' courses of study at the time of the visit of respondents' sales agent they will not be permitted to enroll for a period of two years or any other specified period of time.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That the respondents herein shall, within sixty (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 the order to cease and desist [as required by said declaratory decision and order of February 14, 1952].

IN THE MATTER OF
**HARRY A. BURCH DOING BUSINESS AS WESTERN TRAIN-
ING SERVICE AND NATIONAL TRAINING SERVICE**

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

Docket 5827. Complaint, Nov. 2, 1950—Decision, Feb. 14, 1952

Where an individual engaged in the interstate sale and distribution of correspondence courses to prepare students for examination for certain Civil Service positions—

- (a) Falsely represented through statements on printed postal cards, circulars, newspapers, and other advertising media, and through sales agents and a sales guide with which he supplied them, that his school was a branch of, or connected with, the Government or the Civil Service Commission;
- (b) Represented that many positions were vacant, that men and women were needed to fill such vacancies, and that such positions might be obtained through his school; and
- (c) Represented as aforesaid, including statements on postal cards distributed to holders of rural post office boxes, that men and women were wanted to prepare for various Civil Service examinations, including customs, immigration and border patrol positions, and through such statements created the impression that such postal cards were official announcements of the Civil Service Commission;

The facts being that said commission does not advertise for persons to prepare for examinations or to fill Government positions; said individual had no power or authority to place any person in any Civil Service position; and while many vacancies may exist generally in the Civil Service, the taking of his course of study and the passing of a Civil Service examination would not assure employment, due to veterans' preferences, availability of eligibles in different Civil Service districts, and other contingencies;

- (d) Falsely represented that the remuneration in Civil Service positions was better than the average salaries or wages obtainable in comparable positions in private industry; and

Where said individual, engaged as aforesaid—

- (e) Represented through his said traveling sales agents, that an eighth grade education was sufficient to qualify for and obtain the positions concerned; the fact being that while such an education may suffice for most of the lower grade positions, a high school education is required for many, and still others require additional special training, specific physical qualifications, or practical experience;
- (f) Falsely represented that persons employed in the United States Civil Service are pensioned on two-thirds of their salaries; the facts being that the amount of retirement paid depends in each case upon the length of service and other factors;
- (g) Falsely represented that unless students enrolled at the time of the sales agent's visit they would not be permitted to enroll for a period of two years; when in fact they were free to enroll at any time;