

FEDERAL TRADE COMMISSION DECISIONS

FINDINGS AND ORDERS, JULY 1, 1952, TO JUNE 30, 1953

IN THE MATTER OF

BETHANY COLLEGE AND DIVINITY SCHOOL 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 5562. Complaint, May 28, 1948—Decision, July 9, 1952

Academic degrees have for many years been recognized by educators and members of the public as conferred upon the recipient by a recognized college or institution of higher learning after successful completion of a required, approved course of study in specific subjects of learning. Such degrees are recognized by standard colleges and universities and accrediting organizations as evidence of scholastic attainment.

Where a corporation and a husband and wife, its officers, engaged in the interstate sale and distribution of correspondence courses in various subjects of higher learning—

(a) Made use of the word "college" in the corporate name, and represented thereby and through advertisements in religious periodicals, circulars, and catalogs that their school was a college which maintained a faculty of competent scholars and adequate facilities, including buildings and a library for the instruction of students in subjects of higher learning;

The facts being that their said school was not a college as understood by the purchasing public and the educational field, but was essentially a correspondence school only; it owned no buildings or other real property and never had a permanent location; had practically no financial resources; and the library thereof was limited to some 800 to 900 books including textbooks kept for sale to students; and

(b) Represented falsely through offering to confer or conferring so-called academic degrees, and through their aforesaid advertising, that their school was recognized by a standard accrediting organization, and that its credits and academic degrees were recognized by reputable accredited institutions of higher learning;

The facts being that the "National Association of Christian Schools" referred to was not a recognized educational institution, and said purported academic degrees were of no academic value whatsoever;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public and thereby cause its purchase of their courses of instruction:

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

In the aforesaid proceeding, while the distribution of respondents' courses of instruction appeared to have been discontinued about one year prior to the issuance of the complaint—though subsequent to the initiation of the preliminary investigation in the matter—it could only be concluded on the basis of the record that the corporate respondent was still in existence, and that it continued under the control of the aforesaid respondents, and the Commission was of the view that the public interest required issuance of an appropriate order to the end that the unfair acts and practices theretofore engaged in by respondents might not be resumed.

While ten other individuals were also joined in the complaint as respondents in the instant matter, which alleged that they served in various capacities with the corporate respondent, as members of its board of governors, administrative officials or teachers, and that in such connection they had participated in the formation of the corporate respondent's policies and in the performance of the deceptive acts and practices engaged in: it appeared that no meetings of the Board were held, that in most instances said individuals did not assume their respective positions, and that they did not share responsibility for the conduct of the enterprise or participate in formulating the policies which were adopted; and the charges of the complaint as to said individuals were accordingly dismissed.

As respects the charge in the complaint that respondents had falsely represented that they operated a divinity school as that term is understood by the public and in educational circles, the Commission was of the opinion that such charge had not been sustained by the greater weight of the evidence and that its dismissal also was warranted, since the evidence introduced into the record did not afford basis for the informed conclusion as to what impressions might be engendered among members of the purchasing public by the term "divinity school".

Before *Mr. Henry P. Alden* and *Mr. William L. Pack*, hearing examiners.

Mr. William L. Pencke for the Commission.

Erickson & Nygren, of Chicago, Ill., for Grace Sercomb.

Mr. Harry I. Hannah, of Mattoon, Ill., for Richard H. Crowder.

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 Bethany College and Divinity School, a corporation, and Carl M. Kilmer and Lulu M. Kilmer, individually, and as president and treasurer, and secretary and vice president, respectively, of said corporation, and William Potter, Grace Sercomb, Ted Victor Vorhees, J. Frederick Doering,

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William Morgan Keller, Carl M. Kilmer, Jesse J. Coody, Richard H. Crowder, Merle P. Estabrooks, Edith C. Sheetz, and John W. Oliver, individually and as officers and members of the Board of Governors of said corporation, 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. Respondent, Bethany College and Divinity School, also referred to herein as School, is a corporation not for profit, organized, existing and doing business under the laws of the State of Illinois, with its principal office and place of business located at 123 Eighth Street, North, in the city of St. Petersburg and State of Florida;

Carl M. Kilmer is President, Treasurer, Chairman of the Board of Directors, and Treasurer of the Board of Governors of said corporate respondent, and is further designated Chairman of the Executive Committee, Director of Home Study and Extension, and a member of the faculty of said school. Lulu M. Kilmer is Secretary, a Vice President and Assistant Treasurer, and is also designated a member of the Executive Committee and the Librarian of said school. Both respondents reside at 123 Eighth Street, North, St. Petersburg, Florida.

William Potter, whose mailing address is Box 328, Carthage, Mississippi, is a Vice President and member of the Board of Governors; and is also designated Dean of the Department of Evangelism;

Grace Sercomb, with her business address at 123 Eighth Street, North, St. Petersburg, Florida, is a member of the Board of Governors, and also designated Registrar and Dean of Women;

Ted Victor Vorhees, residing at 209 Fourth Street, Monessen, Pennsylvania; J. Frederick Doering, residing at Morehead, Kentucky; William Morgan Keller, residing at Pineville, Louisiana; Jesse J. Coody, residing at 2905 Lake Shore Drive, Shreveport, Louisiana; Richard H. Crowder, 3321 Western Avenue, Mattoon, Illinois; Merle P. Estabrooks, whose mailing address is Box 193, Corinna, Maine; Edith C. Sheetz, residing at 4723 South Lake Park, Chicago, Illinois; and John W. Oliver, residing at 621 Olive Street, North Little Rock, Arkansas, are members of the Board of Governors of said respondent School, and in addition, said Ted Victor Vorhees is a member of the faculty, said J. Frederick Doering, President of the Board of Governors, said William Morgan Keller, Secretary of the Board of Governors and a member of the faculty, and said Edith C. Sheetz, a member of the faculty of said school.

All of said individual respondents participate in the conduct, operation and management of said Bethany College and Divinity School and in the formulation and determination of its policies in their respective capacities as officers, Board members and instructors as is hereinafter more fully shown.

PAR. 2. Said respondents are now and have been for more than one year last past, engaged in the sale and distribution in commerce between and among the various States of the United States and in the District of Columbia, of courses of study and instruction in various subjects of higher learning, including foreign languages, mathematics, science, psychology, education, music, history, and numerous courses in theology, leading to bachelor's, master's and doctor's degrees. Said courses of study are pursued mainly by correspondence through the medium of the United States mail but are also offered in residence. Respondents, during the time aforesaid, caused and do now cause their said courses of study and instruction and the degrees and diplomas conferred and awarded by them, to be transported from their said place of business in the State of Florida to purchasers thereof located in the several States of the United States other than the State of Florida.

PAR. 3. There is now, and has been at all times hereinafter mentioned, a course of trade in said courses of study so sold and distributed by the respondents in commerce between the various States of the United States and the District of Columbia.

PAR. 4. A college, as generally understood in the educational field and by the general public, is an institution of higher learning, including subjects in the arts, sciences and professions, such as law, medicine, music, and theology, with adequate equipment in the form of buildings, laboratories, libraries and dormitories for resident students and sufficient financial resources to operate and maintain such institution; with an adequate and competent resident faculty of learned persons qualified and trained to teach the respective subjects offered by such institution and possessing degrees from recognized universities and colleges.

A degree is an academic rank recognized by colleges and universities having a reputable character as institutions of higher learning and which are so recognized and accredited by standard accrediting organizations, and which degree conveys to the ordinary mind the idea of some collegiate, university or scholastic distinction.

PAR. 5. In the course and conduct of their business, as aforesaid, respondents by means of newspaper advertisements, catalogs and circulars, mailed to purchasers and prospective purchasers of their said courses of study, have made and are making many false, exaggerated,

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misleading and deceptive statements and representations with respect to said School and the acceptance and recognition of its credits and degrees awarded by them. Typical of said representations, but not all inclusive, are the following advertisements, published in religious magazines, such as The Pulpit Digest, The Christian Century, and others:

MINISTERS! TEACHERS!

Approved courses in theology, teacher training, Christian education. Improve your work. Earn a college degree. Low cost, books furnished. D. Th., B. Th., M. A., B. Sc. granted. Free catalogue. Bethany College and Divinity School.

Excellent faculty, coeducational, graduate and under-graduate. Home Study Department open to those unable to enter residence classes. 1946-1947 Bulletin free.

Graduate and Under-graduate work, excellent faculty, coeducational. Department of Home Study offers 330 subjects in 26 areas of instruction. 1946-1947 Bulletin now ready.

College and seminary levels, certificate courses. Home Study work for employed persons at modest cost.

In their 1946-1947 catalog or bulletin, distributed as aforesaid, respondents make many representations purporting to describe said School and its facilities and equipment. Among said representations are statements that the departments of instruction consist of residence and extension classes, a department of home study and the graduate division; that the scholastic year is divided into three quarters and a summer session, giving specific dates for registration and other activities; that the School is managed by four administrative officers, and a Board of Governors; that the institution consists of a Liberal Arts College and a Divinity School, administered by said Board of Governors of not less than nine qualified educators and ministers elected to the Board because of their special fitness for duties and responsibilities; that the work offered is of orthodox college level and in accordance with the standards set by recognized regional accrediting associations with reference to entrance requirements, faculty, text books and grading standards; that credits earned in other approved schools may be accepted toward advanced standing and students may transfer to other schools conditionally; that the faculty consists of ten or more qualified teachers, each possessing numerous degrees from various colleges and universities; that the college does not operate dormitories but will assist students in finding homes, a list of which will be kept in the office of the Registrar; that each new student in residence is required to pass a physical examination by the college physician; that the subjects offered in the Department of Home Study are the same that are taught in residence by the regular faculty and the same credit is given for work completed in

said department as for that completed in residence; that the Bachelor of Arts and Bachelor of Science degrees may be earned through home study in the College of Liberal Arts; and under-graduate degrees of Bachelor of Arts in Theology, Bachelor of Science, Bachelor of Theology and Bachelor of Religious Education may be earned in the Divinity School; and that the degrees of Bachelor of Divinity, Master of Arts, Master of Arts in Religion, Master of Arts in Christian Education, and Master of Sacred Theology and Doctor of Theology may be obtained in the Graduate Division of the Divinity School.

In a circular distributed as aforesaid, respondents represented among other things that "all work is strictly on a proper level and is accredited by the National Association of Christian Schools."

PAR. 6. By means of the foregoing representations and others of similar import not herein set out specifically, respondents represent and imply to the purchasing public: that they conduct and operate a college and divinity school as said terms are generally understood by the public and in educational circles; that under-graduate and graduate classes are conducted in many subjects of higher learning, including the arts and sciences, languages, music and theology, both in residence and by correspondence; that there is a resident faculty of qualified professional men carefully selected and competent to teach the subjects in their respective fields; that adequate class rooms, buildings and libraries are maintained; that the scholastic year is divided into quarters and sessions, with fixed dates therefor; that resident students are examined by the college physician as part of their entrance requirements; that the credits of said School are accepted at full value by many universities and colleges; that the School is recognized by a standard accrediting organization, and that it in turn recognizes credits from other accepted and recognized schools; that said school's general educational standards are high and comparable to the standards of recognized institutions of higher learning; that said school is operated by administrative officers and a Board of Governors, the members of which, together with the members of the faculty, devote part or all of their time to the work of said school, and that its academic degrees are recognized by reputable accredited educational institutions of higher learning.

PAR. 7. In truth and in fact all of the foregoing statements, representations and implications are grossly deceptive, false and misleading. The business operated by respondents is not that of an institution of higher learning. The school conducted by respondents is neither a college nor a divinity school or seminary, as said terms are generally understood by members of the public and the educational world.

Respondents have none of the facilities, equipment and faculty hereinabove described. Their business is operated in two small rooms in a one-story building in St. Petersburg, Florida, part of one of said rooms also being used as living quarters for respondents Carl M. Kilmer and Lulu M. Kilmer. There are no laboratories and no libraries consisting of text books, scientific journals or other material necessary or adequate for the study of the numerous subjects offered. Respondent Carl M. Kilmer maintains a small collection of books which constitute the library and stock of books for sale, both being wholly inadequate for use in the proper teaching and study of the many subjects offered by respondents.

Neither said administrative officers nor said Board of Governors function to administer the affairs of an educational institution. Respondents Carl M. Kilmer and his wife, Lulu M. Kilmer, are the only individuals devoting all of their time to the operation of said business. None of the other persons named as administrative officers and members of the Board of Governors have taken any active part whatever in the management or operation of said school, nor have they ever attended any meeting. With the exception of respondent Grace Sercomb, they are located in various States other than the State of Florida, and have never visited the place of business operated by respondents Carl M. and Lulu M. Kilmer. Their participation in the formulation and determination of the policies and practices of said school is as follows:

Respondent Grace Sercomb, designated as Dean of Women, has performed none of the work which usually devolves on a Dean of a department in a college, her activities consisting of coaching a few high school students.

Respondent J. Frederick Doering, described in respondents' said catalog as President of the Board of Governors, discussed the policies of the school on two occasions and advised as to location, fund raising, accreditation and a suitable staff of personnel with respondent Carl M. Kilmer on the latter's visit to Morehead, Kentucky.

Respondent William Morgan Keller, designated the Secretary of the Board of Governors, and teacher of music, has never performed any services nor met with the Board. He participated in the affairs of the school by preparing an outline for a music course; and was given an honorary degree of Doctor of Music.

Respondent Jesse J. Coody became a member of said Board of Governors while said school was located in Rodessa, Louisiana, where he attended several meetings of said Board.

Respondent Richard H. Crowder, since his appointment to the Board of Governors, performed no duties as member of said Board.

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Respondent Merle P. Estabrooks originally enrolled as a student in said school in December 1945, received the honorary degree of Doctor of Divinity in August 1946, interested himself in enrolling students and caused some members of his church to make contributions to said school. He has been advised of all items of business and proposed changes of policy, and has been consulted regarding these matters by mail.

Respondent Edith C. Sheetz, through correspondence, made suggestions as to certain methods and means regarding a few items, planned courses in psychology and wrote teaching outlines, but has taught no subjects.

Respondent Ted Victor Vorhees contributed to the advertising representations made by said school by means of a testimonial letter.

By authorizing the publication of their names as members of the Board of Governors of said school, said individual respondents represent and imply to the purchasing public that they actively participate in the management and administration of the affairs of a resident school, when in truth and in fact said respondents live in States other than the State of Florida, and are taking no part whatever in the operation of said school since its establishment in St. Petersburg, Florida.

Respondents' school is not equipped to teach the numerous subjects offered for under-graduate and graduate work as represented in its catalog. With the exception of respondent Grace Sercomb, the members of its faculty are not resident teachers, but reside in places other than the State of Florida. Although said school has numerous correspondence students, said faculty members, with the exception of one or two instances, have never participated in any correspondence work; none of them has ever taught at respondents' school, and a number of them are engaged in pursuits other than teaching. While all of them appear to possess degrees from reputable institutions of learning, a number of them are listed in said catalog as possessing degrees from schools which are not recognized as reputable accredited institutions of higher learning; none of them are qualified to teach postgraduate subjects or to teach candidates for doctorates; and none of said instructors receive any compensation as regular faculty members but are paid on a commission basis.

There are no financial resources to operate and maintain a college.

In truth and in fact respondents' educational standards are not sufficient to satisfy the minimum requirements of any standard accepted college or seminary. The degrees awarded by said school are not recognized by any accepted educational institution or accrediting

agency. The representations that respondents recognize credits and work done in "other approved institutions" is grossly misleading as implying that said school is itself recognized and accredited, when such is not the fact.

PAR. 8. Academic degrees as defined in Paragraph Four hereof are conferred by duly authorized accredited and recognized educational institutions of higher learning as evidence and in recognition of prescribed scholastic attainments by students of said institutions and unless so earned and conferred they do not constitute degrees in the accepted meaning of said term and are of no meaning and effect whatever.

Honorary degrees are degrees conferred by said recognized institutions of higher learning upon individuals who have performed some outstanding service or achieved renown in some field of endeavor.

The practice of designating academic degrees by the use of letters or abbreviations, such as B. S. for Bachelor of Science, M. A. for Master of Arts, D. D. for Doctor of Divinity, has for many years been recognized by educators and members of the public as evidence that the person whose name is followed by such letters possesses a degree conferred upon him by a recognized college or university after successful completion of a required and well-established course of study in specific subjects of learning. Such degrees are recognized by reputable standard colleges and universities and accrediting organizations as evidence of such scholastic attainments.

While respondents' school is organized as a corporation not for profit, its purpose being "educational, including the preparation of persons for the ministry and other work in the church," there is in fact no relation between the granting of a charter to said school and the recognition of degrees issued by it; and the academic degrees so issued are not recognized for the reasons hereinabove set forth, and do not constitute degrees in the accepted meaning of said term. The honorary degrees issued by respondents were conferred upon persons who have merited no distinction by reason of outstanding service or achievement. Respondents in using said well-known and recognized abbreviations to designate academic degrees falsely represent and imply that said degrees are duly earned, accepted, recognized and accredited as aforesaid when such is not the fact.

The representation that said school is accredited by the National Association of Christian Schools is grossly misleading. Said association itself is not a standard recognized association of Christian or theological schools, and is not an accrediting organization in any sense of that term.

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PAR. 9. The use of the terms college, seminary, departments of instruction and divinity school; the descriptions of a collegiate calendar, administrative officers, governing boards, the faculty, entrance requirements for resident students, library facilities and methods of accreditation; and the granting and conferring of academic and honorary degrees, all represent and imply the existence of a large and substantial institution of higher learning devoted to the teaching of numerous subjects in the arts, sciences, and theology by a qualified, resident faculty and managed by experienced administrators.

In truth and in fact, said school is not a college or institution of higher learning but a correspondence school.

PAR. 10. Each and all of the false, deceptive, exaggerated and misleading statements and representations made by the respondents, as hereinabove set forth, are calculated to, and do have a tendency and capacity to mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations of respondents are true; and as a direct consequence of such erroneous and mistaken beliefs, induced by the aforesaid actions and representations of respondents, a substantial number of the public has purchased respondents' courses of instruction and accepted degrees.

PAR. 11. The aforesaid acts and practices of respondents 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on May 28, 1948, 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 provisions of that Act. After the filing of their separate answers by certain of the respondents, testimony and other evidence in support of and in opposition to the allegations of the complaint were introduced before a hearing examiner of the Commission theretofore designated by it to act in this proceeding, 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 hearing before the Commission on the complaint, the answers thereto, testimony and other evidence, recommended decision of the hearing examiner there-

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tofore duly designated by the Commission to act in the place and stead of the hearing examiner originally designated, and brief of counsel supporting the complaint (respondents having filed no brief and oral argument not having been requested); and the Commission, having duly considered the matter and being 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 Bethany College and Divinity School is a corporation organized and existing under the laws of the State of Illinois. The office and principal place of business from which corporate respondent's affairs were last conducted prior to the institution of this proceeding was at 123 Eighth Street, North, St. Petersburg, Florida.

At all the times mentioned herein, respondent Carl M. Kilmer has been president, treasurer and chairman of the board of directors of the corporate respondent, and respondent Lulu M. Kilmer, his wife, has been secretary and assistant treasurer of the respondent corporation. These individuals were two of the three incorporators of the school and at all times since its incorporation have been in active charge and control of its operations, in the formulation of its policies and in the direction of its business practices. Unless otherwise indicated, the term respondents, as used hereinafter, designates respondent Bethany College and Divinity School, respondent Carl M. Kilmer, and respondent Lulu M. Kilmer.

PAR. 2. Respondents have conducted a school and have engaged in the sale and distribution of courses of study and instruction in various subjects of higher learning, such courses having been pursued by students almost entirely through correspondence. Respondents have caused their courses of study and instruction, when sold, to be transported from their place of business first located in the State of Louisiana and later in the State of Florida to purchasers located in various other States of the United States. At all times during which such courses of home study were being distributed and sold, respondents have maintained a course of trade therein in commerce among and between the various States of the United States.

PAR. 3. In the course and conduct of their business, respondents have advertised the school by means of advertisements inserted in religious periodicals and also by means of circulars and catalogs distributed among prospective purchasers of courses of instruction.

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Among the statements appearing in such advertisements were the following:

MINISTERS! TEACHERS!

Approved courses in Theology, Teacher Training, Christian Education. Improve your work. Earn a college degree. Low cost, books furnished. D. Th., B. Th., M. A., B. SC. granted. Free catalog. Bethany College & Divinity School.

An inter-denominational college fully chartered and perpetually incorporated under the laws of the State of Illinois. Graduate work offered through HOME STUDY leads to the degrees B. S. Th., Th. M., A. M., and Th. D. This Bulletin is especially directed to pastors and other Christian workers who must complete their education through home study. Our work is accredited by the National Association of Christian Schools. * * * Credits earned in other approved schools will be accepted by us at full value.

Excellent faculty, co-educational, graduate and undergraduate. Home Study department open to those unable to enter residence classes. 1946-1947 Bulletin free.

Work offered is of orthodox college level and in accordance with the standards set by recognized regional accrediting associations with reference to entrance requirements and prerequisites, faculty training and qualifications, textbooks, and grading standards.

PAR. 4. Through the use of the foregoing statements and others of similar import, respondents have represented directly or by implication that their school is a college maintaining a faculty of competent scholars and adequate facilities, including buildings and a library for the instruction of students in subjects of higher learning, as the term college is understood by the purchasing public and in the educational field; that respondents' school is recognized by a standard accrediting organization and that its credits and academic degrees are recognized by reputable accredited institutions of higher learning.

PAR. 5. Respondent's school was incorporated in 1944 under the laws of the State of Illinois, the location of the school being given in the articles of incorporation as Mt. Carmel, Illinois. No school was ever organized at Mt. Carmel but steps were taken toward the organization and operation of a school late in 1945 after respondents Carl M. Kilmer and Mrs. Lulu M. Kilmer had moved to Baton Rouge, Louisiana. During their residence there, respondents began to issue and sell some correspondence courses of study. The school had no building of its own and a small dwelling house served as the school as well as a residence for Mr. and Mrs. Kilmer. After remaining in Baton Rouge some four months, respondents Carl M. Kilmer and Mrs. Lulu M. Kilmer moved to Shreveport, Louisiana, and there used some rooms in a church as headquarters for the school. About one year later they moved to St. Petersburg, Florida, where they hoped to acquire a building. A catalog promoting the school was issued when it appeared that a lease on a hotel building would be secured, but this transaction was

not completed. When these plans failed to materialize, sales of courses of study through correspondence continued for a brief period but operations of the enterprise were discontinued in July 1947 and the respondent individuals departed from St. Petersburg.

Practically all of the instruction carried on by the school was by correspondence, there being almost no resident students. For a brief period there were a few students receiving resident instruction but this, however, was limited to fewer than a half-dozen subjects. Whenever a student enrolled for a course of study by correspondence, his name was referred to one of several instructors listed as faculty members, all of whom with the exception of respondent Carl M. Kilmer and one other person were located in places other than St. Petersburg, Florida, and from that time on the student's contact was almost entirely with that instructor. None of the instructors to whom students were referred received any regular compensation but received a percentage of the tuition fees paid by students.

As indicated above, the school has never owned any buildings or other real property and has never had a permanent location. It has had practically no financial resources. Its library has consisted of some 800 to 900 books, including textbooks kept on hand for sale to students.

PAR. 6. Respondent Bethany College and Divinity School is chartered under the "General Not For Profit Act" of the State of Illinois. In addition to other corporate offices held by them, as mentioned hereinbefore, the respondent individuals have comprised the corporation's executive committee to which plenary powers in the operation and management of the enterprise were delegated at the outset under a resolution adopted by the board of directors. The corporate by-laws contain an acknowledgment that all assets had been derived from Mr. and Mrs. Kilmer, provide for priority in their favor upon any distribution of assets in the event of dissolution, and make provision for payment of compensation to Mrs. Kilmer for her future services in conducting the corporate affairs.

For respondent Carl M. Kilmer, compensation for future services as an officer, director or faculty member, over and above travelling expenses and rent, was set under the by-laws, as originally adopted, at \$3,000 per annum for the years 1944, 1945 and 1946, and at \$4,000 for the years 1947, 1948 and 1949, and it was further provided that for the year 1950 and succeeding years his salary would be fixed by the executive committee or by the board of directors at each annual meeting, but in no case should the amount be less than \$5,000 per year. At all times since the incorporation of Bethany College and Divinity School its affairs were controlled by respondents Carl M. Kilmer and

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Lulu M. Kilmer and it has served as the instrumentality under which they have engaged commercially in the sale of courses of home study and other courses.

The record in this proceeding establishes beyond question that respondents' school has fallen far short of meeting the minimum requirements for an institution of higher learning. The school was not a college but was essentially a correspondence school only. It was not an accredited institution and its work or credits were not and could not have been recognized by any reputable educational institution. The "National Association of Christian Schools" referred to in the advertising as having accredited the school is not a recognized accrediting association.

The purported academic degrees issued by the school were without any academic value whatsoever and none would have any recognition in the educational field. Academic degrees have for many years been recognized by educators and members of the public as evidence that the recipient possesses a degree conferred upon him by a recognized college or institution of higher learning after successful completion of a required, approved course of study in specific subjects of learning. Such degrees are recognized by standard colleges and universities and accrediting organizations as evidence of scholastic attainment. The offer by respondents to grant and confer an academic degree in and of itself constitutes a false representation that such degree is accepted, recognized and accredited by accredited institutions of higher learning.

PAR. 7. The acts and practices of respondents as set forth above, including the use of the word "college" to describe respondents' school, and the issuance of purported academic degrees, had the tendency and capacity to mislead and deceive a substantial portion of the purchasing public and to cause such portion of the public to purchase respondents' courses of instruction as a result of the erroneous and mistaken belief so engendered.

CONCLUSION

The acts and practices of the respondents as found hereinbefore 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. Upon the basis of the record in this case, it can only be concluded that the corporate respondent is still in existence and that it continues under the control of respondents Carl M. Kilmer and Lulu M. Kilmer. Although the distribution of respondents' courses of instruction appears to have been discon-

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tinued approximately one year prior to the issuance of the complaint herein, which date was subsequent however to the initiation of the preliminary investigation which led to the institution of this proceeding, the Commission is of the view that the public interest requires issuance here of an appropriate order to the end that the use of the unfair and deceptive acts and practices heretofore engaged in by respondents be not resumed.

Named also in the complaint as respondents in this proceeding were William Potter, Grace Sercomb, Ted Victor Vorhees, J. Frederick Doering, William Morgan Keller, Jesse J. Coody, Richard H. Crowder, Merle P. Estabrooks, Edith C. Sheetz, and John W. Oliver. It is alleged therein that these individuals were designated to serve in various capacities with the corporate respondent either as members of its board of governors, as administrative officials or as teachers and that, in such connection, they have participated in the formulation of corporate respondent's policies and in the performance of the deceptive acts and practices engaged in. No meetings of the board were held, in most instances they did not assume their respective positions, and it appears from the record that these individuals have not shared responsibility for the conduct of the enterprise or participated in formulating the policies which were adopted. The charges of the complaint pertaining to these respondents are accordingly being dismissed.

It is additionally charged in the complaint that respondents have falsely represented that they operate a divinity school, as that term is understood by the public and in educational circles. Inasmuch as the evidence introduced into the record does not afford basis for the informed conclusion as to what impressions may be engendered among members of the purchasing public by the term divinity school, the Commission is of the opinion that this charge of the complaint has not been sustained by the greater weight of the evidence and that dismissal thereof also is warranted.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers thereto, testimony and other evidence taken before a hearing examiner of the Commission theretofore duly designated by it, the recommended decision of the substitute hearing examiner duly designated to act in the place and stead of the original hearing examiner, and brief of counsel supporting the complaint (respondents having filed no brief and oral argument not having been requested); and the Com-

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mission having made its findings as to the facts and its conclusion that the respondents there designated have violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondents Bethany College and Divinity School, a corporation, and its officers, and Carl M. Kilmer and Lulu M. Kilmer, individually and as officers of said corporation, and said respondents' agents, representatives 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 respondents' courses of study and instruction, do forthwith cease and desist from:

(1) Using the word "college" or any word of similar import as a part of said corporation's corporate or trade name or otherwise representing, directly or by implication, that respondents' enterprise is a college or institution of higher learning.

(2) Representing, directly or by implication, that respondents' school is recognized by any standard or accepted accrediting organization or is an accredited educational institution.

(3) Representing, by offering to grant or to confer or through conferring any so-called academic degrees, or by any other means, that respondents' degrees are accepted, recognized or accredited by accredited institutions of higher learning.

It is further ordered, That the complaint herein be, and it hereby is, dismissed as to respondents William Potter, Grace Sercomb, Ted Victor Vorhees, J. Frederick Doering, William Morgan Keller, Jesse J. Coody, Richard H. Crowder, Merle P. Estabrooks, Edith C. Sheetz, and John W. Oliver.

It is further ordered, That the charges of the complaint pertaining to advertising statements which have identified respondents' enterprise as a divinity school be, and the same hereby are, dismissed.

It is further ordered, That respondents, Bethany College and Divinity School, a corporation, Carl M. Kilmer and Lulu M. Kilmer, 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 this order.

Complaint

IN THE MATTER OF
MARTIN KORS, DOING BUSINESS AS CHICAGO NOVELTY
SALES COMPANY

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

Docket 5660. Complaint, June 1, 1949—Decision, July 9, 1952

Where an individual engaged in the interstate sale and distribution of watches, jewelry, fountain pens, knives, and novelties; and of devices commonly known as push cards and punchboards, which, bearing explanatory legends or space therefor, were designed for and used only in combination with other merchandise in the sale thereof by ultimate purchasers by lot or chance under plans whereby customers who, by chance selected certain specified numbers, receives articles of merchandise without additional cost at much less than their normal retail price and others received nothing for their money other than the privilege of a push or punch—

(a) Sold and distributed such devices to dealers who made up assortments of candy, cigarettes, clocks, razors, cosmetics, clothing and other articles along with said devices, which were exposed and sold by the direct or indirect retail purchasers to the purchasing public by means thereof; and

(b) Sold assortments of merchandise packed and assembled with punchboards directly or indirectly to retail dealers by whom they were exposed and sold to the purchasing public through the use of the aforesaid punchboards; and Thereby supplied to and placed in the hands of others the means of conducting lotteries, games of chance, or gift enterprises in the sale or distribution of merchandise, in contravention of an established public policy of the United States Government; and assisted and participated in the violation thereof;

With the result that many persons were attracted by the element of chance involved therein and were thereby induced to buy merchandise thus sold, and gambling among members of the public was encouraged:

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

Before *Mr. Abner E. Lipscomb*, hearing examiner.

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

Mr. John F. Reynolds, of Portland, Oreg., for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said Act, the Federal Trade Commission having reason to believe that Martin Kors, an individual, trading as Chicago Novelty Sales Company, hereinafter referred to as respondent has violated provisions of said Act and it