

IN THE MATTER OF
RADIO TRAINING ASSOCIATION OF AMERICA ET AL.

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

Docket 5536. Complaint, Apr. 20, 1948—Decision, Feb. 11, 1953

Where a corporation and its president, engaged in the interstate sale and distribution of a course of home study instruction in the fields of radio and television; in advertising in newspapers and magazines of general circulation and through form letters, directly and by implication—

- (a) Represented that a person who completed their course was assured of proper preparation and ample training for a successful career as a technician in said fields and that the course embraced all the practical training necessary for success therein, including the obtaining and holding of high salaried positions in the two industries;

The facts being that their course, prior to July, 1947, consisted entirely of instruction in the theory of radio and television and included no practical training in the techniques of repair or construction, which cannot be acquired except by actual experience of working with radio and television sets in a shop or laboratory; and, while the corporation had added to its courses since then kits of practical materials and parts for use, as instructed, by its students to provide them with some measure of practical training, and the entire course had been extensively revised and improved since issuance of the complaint, its successful completion still would not qualify a student as an expert radio or television technician; provide him with all the preparation and practical training necessary for a successful career as such; or pave the way to the results claimed; and

- (b) Falsely represented that they had a modernly equipped radio and television laboratory in Hollywood in which those students who satisfactorily completed their home study course could obtain at least two weeks or eighty hours of practical training and experience in television work, the expenses of which, including round-trip transportation from the student's home, and lodging while receiving said training in their laboratory, were all included in the original tuition fee;

The facts being that they furnished the purchasers of their course with nothing of value other than the home study course, together with aforesaid kits;

- (c) Represented falsely through the use of the word "Association" in their corporate name that their enterprise was an organization composed of persons primarily interested in its activities from an educational standpoint; and
- (d) Represented falsely that they had the endorsement of or some connection with the radio and television manufacturing and distributing industry and acted as a medium through which its experts were trained, through use of their corporate name, "Radio Training Association of America," together

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with such statements as "training men for the radio industry for over 25 years," "We are seeking ambitious, mechanically inclined men—to learn Radio and Television, and prepare them for successful future careers as Certified Technicians," and, "Without obligating me advise how I can qualify for a Big Pay Job in the RADIO ELECTRONIC AND TELEVISION INDUSTRY," in form letters, cards and printed contracts distributed to prospective purchasers;

When in fact said enterprise was conducted solely for profit; and at no time had they had any connection with the radio or television industry;

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 their said course:

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.

Before *Mr. Everett F. Haycraft*, hearing examiner.

Mr. R. P. Bellinger for the Commission.

Mr. Murray A. Nadler, of Youngstown, Ohio, *Posner, Berge, Fox & Arent*, of Washington, D. C., and *Wolfson & Essey*, of Beverly Hills, 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 Radio Training Association of America, a corporation, and Benjamin M. Klekner, Earl L. Kemp, Paul H. Thomsen and I. O'Connor, individually and as officers of the Radio Training Association of America, 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, Radio Training Association of America, is a California corporation, with its office and principal place of business located at 5620 Hollywood Boulevard, Hollywood, California. Respondents, Benjamin M. Klekner, Earl L. Kemp, Paul H. Thomsen and I. O'Connor, are individuals and officers of the corporate respondent, Radio Training Association of America, and as such officers 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.

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Respondents are now, and for several years last past 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 practice and 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 and magazines having general circulations throughout the United States, and in pamphlets, 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 courses 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:

We are seeking ambitious, mechanically inclined men—to learn Radio and Television, and prepare them for successful future careers as Certified Technicians.

During the next few years the growth of Radio and Television will be tremendous, and along with this growth there will be vast new job opportunities for trained men.

. RTA brings you the practical training necessary for success right into your own home.

Printed on cards to be returned to respondents: "Without obligating me advise how I can qualify for a Big Pay Job in the Radio Electronic and Television Industry."

URGENT NEED for alert men and women to train for NEW BIG-PAY developments in RADIO-TELEVISION.

You get Practical Radio Shop "Know How."

Upon the student's completion of the Home Study portion of this training with a passing grade of seventy per cent, the student is given the privilege of securing a Postgraduate Course of two weeks, (not less than eighty shop hours) of

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intensive and practical Shop and Laboratory training in the R. T. A. modern equipped laboratory.

The tuition fee charged by the R. T. A. includes round trip bus transportation, (within the continental limits of the U. S. A.), from the bus station nearest the student's residence. It also includes the cost of the student's room, at a place designated by the R. T. A., during the student's attendance while taking the Shop and Laboratory training.

The RADIO TRAINING ASSOCIATION OF AMERICA Plan enables you to become a CERTIFIED RADIO AND TELEVISION TECHNICIAN If you want us to, we can so arrange your RADIO TRAINING ASSOCIATION OF AMERICA training so that you will be brought to our shop and laboratory in Hollywood, California, where you will be given the opportunity to work with the modern radio and television equipment and your expenses, such as your round-trip transportation from your home and your lodging while attending the training in the laboratory are all a part of our plan.

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 one completing their courses in radio and television is assured of proper preparation and ample training for a successful future career as a technician in said fields of science; that respondents' said courses for home study embrace all the practical training necessary for success in said fields of science, and the satisfactory completion thereof properly equips one with the necessary qualifications to obtain and hold high salaried positions in the radio and television industry, and supplies him with adequate radio shop knowledge for a lucrative future in radio; that respondents have a modernly equipped radio and television laboratory in Hollywood, in which those students who satisfactorily complete their home study courses can obtain at least two weeks or eighty hours of practical training and experience in radio and television work, the expenses of which, including round trip transportation from the student's home to Hollywood and lodging while receiving said practical training in respondents' laboratory, are all included in the original tuition fee agreed upon.

PAR. 4. The aforesaid statements and representations are grossly exaggerated, false and misleading. In truth and in fact, respondents' courses in radio and television are not sufficient to properly prepare and train one as a technician in said trades, and respondents' home study courses do not qualify a person to take a job as a technician, and the best that a student of such courses can reasonably expect is to be somewhat better qualified to enter the trade as an apprentice than one who has not received any practical training or experience or who has not studied the theory of such sciences; respondents' courses for home study not only do not embrace all the practical training necessary for success in the radio and television trades, but do not include any prac-

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tical training whatever in said fields, and merely instruct the student in the theory of said subjects, and the completion of said courses does not properly equip one with the necessary qualifications to obtain and hold a high salaried position in the radio and television industry, nor does it equip him with adequate radio shop knowledge, nor with any practical experience to assure a lucrative future career in the radio field; at the time said representations were made respondents did not have, and do not now have, a radio and television laboratory in Hollywood or elsewhere, and respondents have no means of securing to students practical training or laboratory experience for any period of time in radio and television work, and respondents do not bear any expense in the transportation of students to or from Hollywood, nor for lodging in Hollywood, and the student never sees Hollywood unless he does so at his own expense.

PAR. 5. Respondents' use of the word "Association" in the corporate name of their business is deceptive and misleading, in that such usage implies that said enterprise is an organization composed of persons engaged, from an educational standpoint, in giving training in the mechanics and science of radio and television engineering, and as such has the endorsement of or some connection with the radio manufacturing and distributing industry, and that respondents' said enterprise is the medium through which the industry's radio and television experts are trained and secured. Such usage of the word "Association" is made particularly deceptive and misleading in said respects when coupled with displays by respondents' filed representatives to prospective students of letters and certain printed matter furnished by respondents, some of the letters bearing the letterheads of various electrical instrument and equipment manufacturers and radio distributors, some of the other literature carrying the heading, "Chart Showing Progress and Possibilities for a Member of the Radio Training Association of America," and such statements as "Join the Association," and "Hook up with a Great Industry."

PAR. 6. In truth and in fact respondents' said enterprise is not an organization composed of persons engaged in or interested, from an educational standpoint, in imparting scientific training, but respondents' organization is conducted solely as a commercial business venture for profit; it neither has the endorsement of nor any connection with the radio manufacturing and distributing industry, and is not a medium through which the industry's radio and television experts are trained and secured.

PAR. 7. The statements, representations and implications made and caused to be made by respondents, including the usage of the word "Association" in the corporate name, 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 courses of instruction.

PAR. 8. 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, MODIFIED FINDINGS AS TO THE FACTS AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on April 20, 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 respondents' answer, testimony and other evidence in support of the allegations of the complaint and a stipulation as to certain facts entered into between counsel were introduced before a hearing examiner of the Commission, theretofore duly designated by it (no testimony or other evidence having been presented in opposition to the allegations of the complaint), and such testimony, stipulation and other evidence were duly filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission upon the aforesaid complaint, the respondents' answer thereto, the testimony, stipulation and other evidence, the recommended decision of the hearing examiner and brief in support of the complaint (no brief having been filed on behalf of the respondents and oral argument not having been requested); and the Commission, having duly considered the matter, made and issued on December 5, 1951, its findings as to the facts, conclusion and order to cease and desist.¹

Upon consideration of a petition by respondent Radio-Television Training School (formerly named Radio Training Association of America) for modification of said order to cease and desist, the Commission, for the purpose of assisting it in determining the necessity of modifying its findings as to the facts, conclusion and order to cease and desist, reopened this proceeding for the reception of evidence as to certain questions of fact. Evidence as to such facts was presented by counsel for respondents before the hearing examiner previously designated herein by the Commission and such testimony and other evidence were duly filed in the office of the Commission.

¹ See 48 F. T. C. 501.

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Thereafter, this matter came on for reconsideration by the Commission upon the entire record herein, including the petition of respondent Radio-Television Training School to modify the order to cease and desist, the answer thereto of counsel supporting the complaint, the additional testimony and other evidence and the report and recommendation of the hearing examiner; and the Commission, having reconsidered the matter and being of the opinion that the findings as to the facts and conclusion should be modified, makes this its modified findings as to the facts and conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Radio-Television Training School (formerly named Radio Training Association of America prior to the amendment of its corporate charter in 1949) is a California corporation, with its office and principal place of business at 5100 South Vermont, Los Angeles 37, California. Respondent Benjamin M. Klekner, whose present address is unknown, was president of respondent corporation and directed and controlled its advertising policies for several years immediately prior to April of 1949, at which time he severed all connection with the respondent corporation, all of his interest in respondent corporation being acquired by one Pearl B. Knight, not a respondent herein. Since October 6, 1950, all of the stock in respondent corporation has been owned by Pearl B. Knight and Bertram A. Knight, the latter being president and managing executive of respondent corporation. Bertram A. Knight is not a respondent herein.

Respondents Earl L. Kemp, Paul H. Thomsen and I. O'Connor are employees of the respondent corporation and have had no control or direction over the policies of the respondent corporation. The Commission is of the opinion, therefore, that the allegations of the complaint have not been sustained as to respondents Earl L. Kemp, Paul H. Thomsen and I. O'Connor and that the complaint should be dismissed as to them and the term "respondents" as used hereinafter does not include these individuals.

PAR. 2. Respondent corporation is now and for many years last past has been, and respondent Benjamin M. Klekner for several years immediately preceding April, 1949, was, engaged in the sale and distribution of a course of instruction for home study in the fields of radio and television. During the periods of time they were so engaged, each of the said respondents caused, and the respondent corporation now causes, the said course of instruction, when sold, to be transported from their places of business in the State of California to the purchasers thereof in the other States of the United States. Re-

spendent corporation maintains, and at all times mentioned herein has maintained, and respondent Benjamin M. Klekner at all times mentioned herein prior to April, 1949, did maintain a course of trade in said course of instruction, in commerce between and among the various States of the United States.

PAR. 3. In the course and conduct of their said business in commerce and for the purpose of enrolling prospective students and promoting the sale of their said course of instruction, respondents, by means of advertisements inserted in newspapers and magazines having general circulation in the United States and through the use of form letters distributed throughout the United States by means of the United States mails, have represented, directly and by implication, that one completing their course in radio and television is assured of proper preparation and ample training for a successful future career as a technician in said fields of science; that respondents' said course for home study embraces all the practical training necessary for success in said fields of science, and the satisfactory completion thereof properly equips one with the necessary qualifications to obtain and hold high-salaried positions in the radio and television industry and supplies him with adequate radio shop knowledge for a lucrative future in radio; that respondents have a modernly equipped radio and television laboratory in Hollywood, in which those students who satisfactorily complete respondents' home study course can obtain at least two weeks or eighty hours of practical training and experience in radio and television work, the expenses of which, including round-trip transportation from the student's home to Hollywood and lodging while receiving said practical training in respondents' laboratory, are all included in the original tuition fee agreed upon.

PAR. 4. The aforesaid representations are false and misleading.

Prior to July, 1947, respondents' course did not include any practical training in the techniques of radio or television repair or construction, but consisted entirely of instruction in the theory of radio and television. Such techniques cannot be acquired except by actual experience of working with radio and television sets in a shop or laboratory. Periodically since July, 1947, respondent corporation has added one at a time to its course of instruction, kits of practical materials and parts to be used by its students in accordance with instructions to provide them with some measure of practical training. Respondent corporation's present course of instruction now includes eleven of such kits, the latest, consisting of parts and instructions for the construction of a television receiver, having been added in May, 1950. The entire course has been extensively revised and improved since the issuance of the complaint herein.

However, even as presently constituted, successful completion of this course does not qualify a student as an expert radio or television technician, does not provide him with all of the preparation and practical training necessary for a successful career as a technician in said fields of science, does not equip him with the necessary qualifications to obtain and hold high-salaried positions in the radio and television industry and does not supply him with adequate radio shop knowledge for a lucrative future in radio. Respondents' course of instruction prior to the above-described revisions and additions was much less capable than the present course of providing the training and qualifications claimed for it by respondents in their advertising.

Respondents have never had and do not now have a radio or television laboratory in Hollywood or elsewhere and do not have any means of providing their students with laboratory experience in radio or television work. Respondents do not bear any expense in the transportation of purchasers of their course of instruction to Hollywood, nor do they furnish to the said purchasers anything of value other than a home study course of instruction in radio and television together with the materials, parts and equipment contained in the kits furnished as a part of said course.

PAR. 5. For several years prior to 1949, respondents, by the use of the word "Association" in the corporate name of their business, implied that said enterprise was an organization composed of persons primarily interested in its activities from an educational standpoint.

During this same period of time, by the use of the corporate name "Radio Training Association," together with such statements as "Training Men for the Radio Industry for Over Twenty-five Years," "We are seeking ambitious, mechanically inclined men—to learn Radio and Television, and prepare them for successful future careers as Certified Technicians," and "Without obligating me advise how I can qualify for a Big Pay Job in the RADIO, ELECTRONIC AND TELEVISION INDUSTRY" contained in form letters, cards and printed contracts distributed to prospective purchasers of their said courses, respondents implied that they had the endorsement of or some connection with the radio and television manufacturing and distributing industry and that they acted as a medium through which the industry's radio and television experts were trained.

PAR. 6. In fact respondents' said enterprise is now and at all times mentioned herein has been conducted solely as a commercial business venture for profit; at no time has it had the endorsement of or any connection with the radio or television industry, and at no time has it acted as a medium through which the industry's radio and television experts are trained.

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PAR. 7. The use by respondents of the false and misleading representations as hereinbefore set forth, including the use of the word "Association" in the corporate name, has had the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such representations are true, and has had the tendency and capacity to cause such portion of the public to purchase respondents' said course of instruction because of such erroneous and mistaken belief.

CONCLUSION

The acts and practices of the 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.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, respondents' answer thereto, testimony and other evidence, including a stipulation of facts entered into by and between counsel for respondents and counsel in support of the complaint, introduced before a hearing examiner of the Commission theretofore duly designated by it, recommended decision of the hearing examiner, and brief in support of the complaint (no brief having been filed by respondents and oral argument not having been requested), and the Commission, after having made its findings as to the facts and its conclusion that the respondents Radio-Television Training School (formerly named Radio Training Association of America), a corporation, and Benjamin M. Klekner, individually, have violated the provisions of the Federal Trade Commission Act, having on December 5, 1951, issued and subsequently served upon the respondents said findings as to the facts, conclusion, and its order to cease and desist; and

This proceeding having been reopened and additional evidence having been received to assist the Commission in its consideration of respondent corporation's petition to modify said order to cease and desist, and the Commission, after reconsideration of this matter on the basis of the present record, having made its modified findings as to the facts, and its conclusion that respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondents Radio-Television Training School, a corporation, and its officers, agents, representatives and employees, and Benjamin M. Klekner, an individual, and his agents,

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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 a course of instruction for home study in the fields of radio or television, do forthwith cease and desist from:

1. Advertising or representing, directly or by implication:

(a) That one completing said course in radio and television is assured of proper preparation and ample training for a successful future career as a technician in said fields of science.

(b) That said course embraces all practical training necessary for success in said fields of science.

(c) That persons who complete said course are qualified thereby to hold high-salaried positions in the radio or television industry.

(d) That laboratory or shop equipment is available for the use of purchasers of said course.

(e) That any purchaser of said course will receive anything of value other than a home study course of instruction.

(f) That said course is endorsed by or that respondents' business has any connection with any of the members of the radio or television industry.

2. Using the word "Association," or any other word or words of similar meaning, as a part of the trade or corporate name under which the respondents conduct their business; or otherwise representing, directly or by implication, that respondents' business is anything other than a commercial business venture operated for profit.

It is further ordered, That the complaint herein be, and it hereby is dismissed as to respondents Earl L. Kemp, Paul H. Thomsen and I. O'Connor, without prejudice, however, to the right of the Commission to issue a new complaint or take such further or other action against such respondents at any time in the future as may be warranted by the then existing circumstances.

It is further ordered, That the respondents Radio-Television Training School, a corporation, and Benjamin M. Klekner, an individual, 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.

Syllabus

IN THE MATTER OF
TRICO PRODUCTS CORPORATION

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

Docket 6050. Complaint, Oct. 3, 1952—Decision, Feb. 12, 1953

Where a corporation engaged in the manufacture and interstate sale and distribution of vacuum-operated windshield wiper motors, arms, linkages, blades, and other automotive safety devices; which, by virtue of patent ownership, was, for all practical purposes, the only manufacturer of that type of windshield wiper motors in the United States during the period between 1922 and 1950; and which sold and distributed its products on an order basis to automobile manufacturers for use as original equipment;

In selling and distributing its products also for resale to 171 warehouse distributors of automotive parts and accessories for resale to general jobbers, specialty jobbers, and service distributors, for resale to automobile parts dealers, garages, and filling stations who sold at retail to the consuming public; in competition with others similarly engaged, as were many of its aforesaid customers and their customers, except as below set forth—

(a) Entered into franchise agreements for the resale of its replacement parts products with various warehouse distributors, whereby they agreed (1) to conform to and carry out its price policies, (2) to offer and grant allowances on exchanges and trade-ins in accordance with prices fixed by it, (3) to carry out its price policies by entering into franchise agreements with their customers, and (4) to enforce said price policies by supervising the performance of the franchise agreements with their customers; and

(b) Sold its replacement parts products only to warehouse distributors who entered into the aforesaid franchise agreements; and

Where most of said warehouse distributors—

(c) Entered into franchise agreements with their customers on a form prepared and supplied by said corporation, which did not become effective until approved by it and had to be renewed each year, by the terms of which said customers agreed (1) to conform to and carry out said corporation's price policies, and (2) to offer and grant allowances on exchanges and trade-ins in accordance with the prices fixed by it; and

Where said corporation—

(d) Regularly issued and distributed to its warehouse distributors price lists and catalogs which contained prices, discounts, and trade-in allowances to which all said resellers of its products had agreed to conform, which in turn were distributed by its warehouse distributors to their customers;

With the result that it illegally fixed, controlled, and maintained the prices, terms and conditions at which its replacement parts products were resold at all levels of distribution: