

Decision

51 F. T. C.

IN THE MATTER OF
THE CAPITOL SERVICE, INC., ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE
COMMISSION ACT

Docket 6164. Complaint, Feb. 5, 1954—Decision, Aug. 31, 1954

Order requiring the corporate operator of a correspondence course of study for United States Civil Service examinations and its president-manager in Lansing, Mich., to cease representing falsely, through postal cards, circulars and other advertising matter, and statements of sales agents, that they were connected with the U. S. Civil Service Commission and their sales agents were employees thereof; that many thousands of civil service positions, near their homes and at high starting salaries, were available and guaranteed to students completing the course but that taking the course was the only way to obtain a Government job; that purchasers of the course would receive specialized training for specific positions and were specially selected, among other things.

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

Mr. William L. Pencke for the Commission.

Robbins & Wechsler, of Detroit, Mich., for respondents.

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 August 31, 1954, 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

The complaint in this matter charges respondents with the use of certain unfair and deceptive acts and practices in violation of the Federal Trade Commission Act. After hearings had been held at which certain evidence in support of and in opposition to the complaint was received, a stipulation of facts was entered into by counsel which provided, among other things, that the record might be closed insofar as the reception of evidence was concerned and the case submitted to the hearing examiner for final consideration upon the record as made up to that time including the stipulation, the filing of proposed findings and conclusions and oral argument being waived. The matter

is therefore now before the hearing examiner for final consideration on the merits.

Respondent The Capitol Service, Inc., is a corporation organized and existing under the laws of the State of Michigan, with its principal office and place of business at 2019 South Cedar Street, Lansing, Michigan. Respondent Robert K. Smith is President and a director of the corporation, and formulates all of its policies and controls and manages all of its affairs.

Respondents are engaged in the sale of a course of study or instruction intended for preparing students thereof for examination for certain Civil Service positions in the United States Government, the course being pursued by correspondence through the United States mails. The business is interstate in character, the course of study being sold by respondents to numerous persons located in various states of the United States other than Michigan. Respondents are thus engaged in commerce as that term is defined in the Federal Trade Commission Act. A mailing address in Washington, D. C. was formerly maintained by respondents and much of the advertising material which was distributed among prospective purchasers of the course of study was mailed from the Washington address. The use of this address, however, has been discontinued and now all of the business is transacted from Lansing, Michigan.

In soliciting sales of their course of study respondents use postal cards, circular letters and other advertising material, which is distributed among prospective purchasers through the mail. Typical of the statements appearing in such advertising material are the following:

WANTED!

(Picturization
of Capitol Dome)

MEN—WOMEN (married or single)

Ages 18 to 50

Preparatory Training for

CIVIL SERVICE

NOW

IS THE
TIME

GET A U. S. GOVERNMENT JOB

Many Thousands of Opportunities

GOVERNMENT JOBS

MEN and WOMEN * AGES 18-50 * Good Steady Pay
(To \$4479 yearly to start) (To \$4479 yearly to start)

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HERE IS YOUR OPPORTUNITY!

Civil Service positions offer chances for advancement and increased earnings in Grade Pay Raises, Liberal Pensions, Sick Leave with pay and Paid Vacations. Instructions now being given if you qualify.

Postmaster
2nd, 3rd or 4th Class
Rural Mail Carriers
Postal Clerks
Mail Clerks
Customs Service
Storekeepers

Mail attached Card Today!
FOR FULL INFORMATION
AND FREE LIST OF POSITIONS

Many Jobs High School Education not
Required

Asst. Meat
Inspector
Clerk-Typist
Railway Mail
Clerk

Govt. Guards
U. S. Jobs in
Foreign Countries

The Capitol Service, Inc.,

P. O. Box 1537

Washington 13, D. C.

There are now many more than a million persons employed in the Civil Service . . . To maintain this enormous staff of federal employees, the civil service placements have been estimated to total many thousands of persons annually . . . Each year thousands of men and women from every walk of life, wise enough to realize the wonderful opportunities awaiting them, step from insecure, poorly-paid jobs into well-paid, lifetime government positions . . .

A personal appointment is necessary in order to determine what field you may be best qualified in, before competing in your Civil Service Examination. A few days may lapse before a field man will call on you.

Check two positions on the reverse side you are interested in, keep this letter and give it to the field man so that he may return it to this office explaining why you were accepted or rejected.

Select 1 or 2 positions that interest you. Perhaps you may have the proper qualifications. Our field man will help you when he calls.

Positions for men!

Positions for Women!

The respective lists of positions set forth under the foregoing headings include various positions in the postal service; positions for meat and live stock inspectors, customs, border and patrol inspectors; storekeeper-gauger; revenue agent; criminal investigator in the foreign service; accountant; social worker; bookkeeping machine operator and a number of service positions of lower grade.

A questionnaire distributed to prospective purchasers, entitled "Personal Information—7", is headed "The information here furnished will aid us in determining best your qualifications so we may help you in your Civil Service career."

On respondents' postal cards, circular letters and other printed material there is prominently displayed a picturization of the dome of the United States Capitol.

Through the use of this advertising material respondents have represented, directly or by implication:

1. That their business is a branch of or is connected with the United States Government or the United States Civil Service Commission.
2. That many thousands of positions are open in the United States Civil Service, including those specifically listed on such postal cards and circular letters.
3. That many thousands of persons are appointed annually, and that thousands of men and women change from poorly paid and insecure jobs to well-paid life-time appointments in the United States Civil Service.
4. That the information given on respondents' "Personal Information—7" blank enables them to qualify applicants for Civil Service positions.
5. That it is necessary that applicants be interviewed by respondents' field agents to determine their qualifications for civil service positions, that respondents and their agents are qualified to make such determinations, and that such positions may be obtained through respondents' school.
6. That the starting salaries for the positions listed by respondents are up to \$4479 per year.

Accompanying respondents' postal card is a return card for use by prospective purchasers in indicating their interest in the course of study. Upon receiving this return postal card respondents have their sales agents call upon the prospect and endeavor to sell him the course. In a substantial number of instances the following oral representations have been made to prospects by the sales agents:

1. That The Capitol Service, Inc., is connected with or is a branch of the United States Civil Service or some other agency of the United States Government.
2. That respondents' sales agents are representatives or employees of the United States Civil Service or have some connection therewith.
3. That the taking of respondents' course of study is the only way to obtain a Government job.
4. That completion of respondents' course of study assures students of positions in the United States Civil Service or makes them eligible for appointment to such positions.
5. That purchasers of the course would receive specialized training for specific positions.
6. That prospective purchasers of respondents' course of study are especially selected.

7. That enrollees may obtain employment at or near their place of residence.

8. That enrollment contracts may be cancelled by enrollees at any time they desire to do so.

These representations made through respondents' printed advertising material or orally through their sales agents are false and misleading. Actually, neither respondents nor any of their agents are connected in any manner whatever with the United States Civil Service or any other agency of the United States Government. Most of the positions listed in respondents' advertising material as being available are not open to applicants generally, but are either restricted to persons of veteran status or require special physical and educational qualifications and practical experience. Positions in the postal service are restricted to persons living within the area of the particular post office. Positions in the Customs Service are restricted to men and most of the positions are open to veterans only. Positions in the Immigration, Border, Port and Patrol Services are restricted to veterans and require special training. No examination has been announced for the position of storekeeper-gauger for a number of years. Examinations for the position of Verifier, Opener and Packer and Forest and Field Clerk have not been announced for many years. The representation that many thousands are appointed to Civil Service positions every year is highly exaggerated.

It is unnecessary that persons desiring to prepare for Civil Service examinations be interviewed by respondents' sales agents in order to enable them to do so. Applicants for Civil Service examinations are not required to take respondents' course of study in order to qualify for such examinations, nor does completion of such course make applicants eligible for Civil Service examinations or assure them positions in Civil Service. Generally speaking, the starting salaries for the positions listed by respondents are not as high as those stated and implied. Respondents do not offer specialized training for specific positions but sell only one course of study, this course being intended only to prepare students for basic Civil Service examinations. Students or enrollees are not especially selected by respondents; on the contrary, it is respondents' practice to accept all persons willing and able to pay the purchase price of the course. Respondents are unable to obtain positions for their students in localities selected by the student. Enrollment contracts are not subject to cancellation, respondents usually demanding payment of the full purchase price of the course regardless of whether the course is completed by the student.

Respondents' former practice of mailing advertising material from an address in Washington, D. C., was also misleading in that it furthered the impression of prospective students that respondents were connected with the United States Civil Service Commission or some other agency of the United States Government.

It further appears that while the oral misrepresentations of respondents' sales agents referred to above were made during the regular course of their employment, such representations were made without the knowledge, consent or authority of respondents; that persons applying to respondents for employment as sales agents are investigated to determine their fitness for such employment; that all sales agents employed by respondents are required to enter into a written contract which includes, among other things, specific provisions with respect to misrepresentations; and that when it is found that sales agents have been guilty of misrepresentations in the sale or attempted sale of the course of study, such agents are discharged by respondents.

The complaint also raises the issue of the use by respondents on their advertising material of the picturization of the dome of the United States Capitol. It appears from the testimony that the use of the picture serves to further the impression of prospective purchasers of the course that there is some connection between respondents and the United States Government. It is therefore concluded that the picture as presently used is misleading. However, an absolute prohibition against the use of the picture does not appear to be warranted. All that would seem to be necessary to prevent such erroneous impression is that where the picture is used, it be accompanied by words clearly stating that respondents' business is a private correspondence school.

CONCLUSIONS

The proceeding is in the public interest. The acts and practices of respondents as set forth above have the tendency and capacity to mislead and deceive a substantial portion of the public with respect to respondents and their course of study, and the tendency and capacity to cause such members of the public to purchase respondents' course of study as a result of the erroneous and mistaken belief so engendered. Such acts and practices are 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 respondent The Capitol Service, Inc., a corporation, and its officers, and respondent Robert K. Smith, individually,

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and 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 a course of study and instruction intended for preparing students thereof for examination for civil service positions under the United States Government, or any similar course of study, do forthwith cease and desist from:

1. Representing, directly or by implication:

(a) That respondents or their school have any connection with the United States Civil Service Commission or any other agency of the United States Government.

(b) That respondents' sales agents are representatives or employees of the United States Civil Service Commission or any other government agency or have any connection therewith.

(c) That the completion of respondents' course of study assures students of positions in the United States Civil Service or makes them eligible for appointment to such positions.

(d) That it is necessary for persons seeking Civil Service positions to take respondents' course of study in order to qualify for or obtain such positions.

(e) That any Civil Service position which requires appointees to have veteran's status or special physical, mental, educational or experiential qualifications is generally available.

(f) That it is necessary that persons desiring to prepare for civil service examinations be interviewed personally by respondents' salesmen.

(g) That vacancies exist in any Civil Service position contrary to the fact; or that the number of positions available or vacant in said service or any branch thereof is greater than is actually the fact.

(h) That the starting salary for any United States Civil Service position is greater than it is in fact.

(i) That respondents offer any specialized training or sell any course of instruction other than a basic course for lower grade positions.

(j) That positions obtained in the United States Civil Service will be at or near the place of residence of the employee.

(k) That prospective purchasers of respondents' course of instruction are especially selected.

(l) That enrollees may cancel their enrollment contract at any time without liability for the balance of the purchase price of said course.

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Order

2. Using any picturization resembling or simulating the dome of the United States Capitol unless in immediate conjunction therewith it is clearly set forth that respondents' business is a private correspondence school.

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 August 31, 1954].