

Complaint

IN THE MATTER OF

HARRY A. BURCH TRADING UNDER THE NAMES OF  
WASHINGTON INSTITUTE OF PRACTICAL NURSING  
AND NATIONAL TRAINING SERVICE

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

*Docket 6170. Complaint, Feb. 11, 1954—Decision, Sept. 23, 1954*

Consent order requiring the operator of a correspondence school in Seattle, Wash., to cease misrepresenting the nature of his school and the opportunities for employment in the field of practical nursing, among other things.

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

*Mr. Charles S. Cox* for the Commission.

*Mr. R. Wayne Cyphers*, of Seattle, Wash., 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 Harry A. Burch, trading as Washington Institute of Practical Nursing and National Training Service, hereinafter referred to as respondent, has 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 Harry A. Burch, is an individual trading under the firm names of Washington Institute of Practical Nursing and National Training Service, with his principal office and place of business located at Suite 203, Paramount Theater Building, 907 Pine Street, in the city of Seattle and State of Washington.

PAR. 2. Respondent is now, and has been for more than two years last past, engaged in the sale and distribution in commerce between and among the various States of the United States of courses of instruction, including among others a course in practical nursing, which said courses are pursued through the medium of the United States mail. Respondent causes said courses of instruction to be transported from his said place of business in the State of Washington to the purchasers thereof located in the various States of the United States other than the State of Washington.

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

PAR. 4. In the course and conduct of his business, as aforesaid, respondent makes use of advertisements in newspapers, circulars and return postal cards addressed to boxholders generally, bearing the return address National Training Service and inviting inquiries with respect to the several training courses enumerated in Paragraph 2 hereof. Respondent also employs sales agents who call upon prospects for the purpose of soliciting orders for the purchase of said courses of instructions. Specifically in connection with the sale of said course in practical nursing, respondent, by any one or more of the foregoing means and oral statements made by said sales agents, represents and implies:

1. That there is an acute national shortage of nurses who are needed for hospitals, sanitoriums, doctor's offices and home nursing, and that persons completing respondent's course of instruction will aid in alleviating such shortage.

2. That women from 17 to 60 years of age are urgently needed to prepare for practical nursing at home and that the opportunities in said field are unlimited.

3. That a high school education is not required or necessary to study respondent's course of instruction or to become a licensed or graduate practical nurse.

4. That said course is "a practical theoretical course" which may be mastered easily through home study.

5. That respondent operates a training school and maintains a competent teaching staff.

6. That completion of said course of instruction enables students—

- (a) to obtain employment as nurses or graduate practical nurses in hospitals, sanitoriums or doctors' offices;

- (b) to qualify for State examinations for registered or licensed practical nurses;

- (c) to qualify for general nursing and perform all duties except attendance in surgery.

7. That respondent's school is recognized or accredited in the medical and nursing professions.

8. That the diploma issued by respondent gives the holder thereof accredited standing or is equal to a practical nurse's license.

9. That students may cancel their contracts of purchase at any time without obligation to pay any balance due on the purchase price.

PAR. 5. The foregoing representations and implications are false, deceptive and misleading. In truth and in fact:

1. Regardless of any acute national shortage of nurses which may exist, persons who complete respondent's course of study will not alleviate such shortage, nor are they qualified to take advantage of the opportunities for employment which may exist in the field of nursing.

2. Generally, women are not urgently needed to train as practical nurses and respondent's course does not train them adequately for said vocation, and the opportunities in the field of practical nursing for respondent's students are not unlimited.

3. Although respondent may not require his students to possess a high school education, such qualification is nevertheless necessary and required for persons desiring to become graduate or licensed practical nurses.

4. Respondent's said course may not be mastered easily through home study for the reason that it includes a number of subjects which require demonstration and practice on patients.

5. Neither respondent nor his employees are qualified by training or experience to teach practical nursing, and no teaching staff is maintained.

6. Completion of said course does not qualify persons to obtain employment as nurses or graduate practical nurses in any institution devoted to the care of the sick. Such persons could find employment in hospitals only as nurses' aides, and in that capacity would be hired regardless of whether they had any previous training; said course does not enable any person to qualify as a registered or licensed practical nurse or be eligible for the taking of any State examinations therefor; nor does said course qualify such person to perform all nursing duties.

7. Respondent operates no training school and said course of instruction is not recognized or accredited in the field of practical nurse education. To obtain such recognition and accreditation, minimum standards must be complied with, which include several months of resident study of theoretical subjects and at least six months of practical training on live patients under the supervision of registered nurses in a hospital approved and accredited for that purpose.

8. The so-called diploma issued by respondent to persons having completed said course is of no effect or validity whatever, and gives neither an accredited standing nor constitutes the equivalent of a license to engage in practical nursing.

9. Purchasers of said course cannot cancel their contract of enrollment and discontinue the payments due thereon; on the contrary, respondent demands payment of the full purchase price regardless of any cancellation.

PAR. 6. The use of the word "institute" in respondent's trade name implies the existence and operation of a resident institution of higher learning with a staff of competent, experienced and qualified educators offering instruction in the arts, sciences and other subjects of higher learning.

In truth and in fact, respondent's business is not an institute within the generally accepted meaning of said term. Respondent offers no training in a resident school in any subject of higher education, his business consisting only of selling courses of instruction in vocational subjects by correspondence.

PAR. 7. The statements and representations made by respondent, as aforesaid, have the tendency and capacity to mislead and deceive members of the purchasing public into the belief that said statements and representations are true and to induce a substantial number thereof to subscribe to and purchase respondent's said course of instruction on account thereof.

PAR. 8. The aforesaid acts and practices of respondent, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

#### DECISION OF THE COMMISSION

Pursuant to Rule XXII of the Commission's Rules of Practice, and as set forth in the Commission's "Decision of the Commission and Order to File Report of Compliance", dated September 23, 1954, the initial decision in the instant matter of hearing examiner Abner E. Lipscomb, as set out as follows, became on that date the decision of the Commission.

#### INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint in this proceeding charges the respondent with unfair and deceptive acts and practices in the offering for sale, sale and distribution of correspondence courses in practical nursing, in violation of the Federal Trade Commission Act. Subsequent to the submission of respondent's answer to said complaint, respondent and counsel supporting the complaint entered into, and thereafter submitted to the Hearing Examiner, a Stipulation For Consent Order.

In this stipulation, respondent Harry A. Burch is identified as an

individual trading under the names of Washington Institute of Practical Nursing and National Training Service, with his office and principal place of business located at 203 Paramount Theater Building, 907 Pine Street, in the City of Seattle, State of Washington.

Respondent admits all the jurisdictional allegations set forth in the complaint and stipulates that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with such allegations. Respondent requests that his answer, heretofore submitted herein, be withdrawn, and expressly waives the filing of an answer to the complaint and further proceedings before the Hearing Examiner and the Commission. Respondent agrees that the order contained in said stipulation shall have the same force and effect as if made after a full hearing, presentation of evidence and findings and conclusions thereon, and expressly waives all right, power and privilege to contest the validity of said order.

Said stipulation provides that the complaint may be used in construing the terms of the order contained in the stipulation, and that said order may be altered, modified, or set aside in the manner prescribed by statute for orders of the Commission.

Respondent further agrees that said stipulation for consent order together with the complaint herein, shall constitute the entire record in this proceeding, and that the order contained in said stipulation may be entered without further notice upon the record, in disposition of this proceeding.

In view of the provisions of the Stipulation For Consent Order as outlined above, and the fact that the order embodied in the stipulation does not differ materially from the order accompanying the complaint, it appears that the respondent's request that his answer to the complaint herein be withdrawn should be granted; that the Stipulation For Consent Order should be accepted; and that such action, together with the issuance of the order contained in the stipulation, will resolve all the issues arising by reason of the complaint in this proceeding and respondent's answer thereto, and will safeguard the public interest to the same extent as could be accomplished by a full hearing and all other adjudicative procedure waived in said stipulation. Accordingly, the Hearing Examiner, in consonance with the terms of said agreement, accepts the Stipulation For Consent Order submitted, grants respondent's request that his answer to the complaint herein be withdrawn, and issues the following order:

*It is ordered* that respondent, Harry Burch, trading under the name Washington Institute of Practical Nursing or National Training Service, or trading under any other name, and his representatives, agents and employees, directly or through any corporate or other device, in

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connection with offering for sale, sale and distribution of any course of instruction, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication:

1. That the opportunities for employment in the field of endeavor in which a course of instruction is offered are greater than they are in fact;

2. That a correspondence school course is capable of (a) qualifying persons for positions as nurses or licensed practical nurses in hospitals, sanitariums or other medical institutions or in a doctor's office, (b) qualifying persons for State examinations for registered or licensed practical nurse;

3. That respondent's business is other than the operation of a correspondence school;

4. That respondent has a staff of instructors in the subject covered by the course unless such is the fact;

5. That a high-school education is not necessary to become a licensed practical nurse;

6. That a high-school education is not necessary to become a graduate practical nurse unless limited to persons completing respondent's course of instruction;

7. That any course of instruction or diploma issued to persons completing any such course is approved, accredited or recognized by any organization, institution, group or person unless it is a fact;

8. That a contract of enrollment may be cancelled without obligation for any unpaid balance due on the purchase price of any such course, unless it is a fact.

B. Using the word "Institute" in his trade name or otherwise representing that his business is other than a commercial enterprise operated for profit.

*It is further ordered* that the answer to the complaint herein filed by respondent on March 15, 1954, be, and the same hereby is, withdrawn from the record.

ORDER TO FILE REPORT OF COMPLIANCE

*It is ordered* that respondent Harry A. Burch, an individual, trading under the names of Washington Institute of Practical Nursing and National Training Service, shall, within (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist [as required by said declaratory decision and order of September 23, 1954].

Appearances

IN THE MATTER OF  
NATIONAL PAPER TRADE ASSOCIATION OF THE  
UNITED STATES, INC., ET AL.

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

*Docket 5592. Complaint, Oct. 5, 1948—Decision, Sept. 24, 1954*

Order requiring a national and 22 regional and local trade associations, and nearly 100 wholesalers and distributors of fine and wrapping paper to cease their planned common course of action to restrict competition through concerted action, including the dissemination, as price books, of the national association's "Blue Book" for fine paper, and "Yellow Book" and "Brown Book" for wrapping paper, containing average mark-up percentages, tables, etc.; and including surveys, studies, cooperative group discussions, and other action directed to the establishment of uniform cash discounts and schedules of cutting charges in the respective trade areas; in the course of which conspiracy they concertedly—

- (a) Established uniform and identical prices, terms, and discounts for both fine and wrapping paper in their respective trade areas;
- (b) Classified paper products and agreed upon uniform and identical prices, terms, and discounts to be charged for each classification;
- (c) Established uniform and identical additions to and deductions from prices within each classification, including differentials for individual items or classes of items, quantity, color, cutting, trimming, packaging, or delivering;
- (d) Established uniform and identical mark-ups for use in arriving at the selling prices for their products in the respective trade areas;
- (e) Established uniform charges in certain trade areas for cutting or trimming to a purchaser's specifications;
- (f) Held meetings at which prices, terms and conditions of sale, and trade practices designed to eliminate competition among them were discussed and acted upon; and
- (g) Disseminated among themselves, at frequent intervals, current and future quotations of prices, terms, and conditions of sale offered to the trade.

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

*Mr. Earl W. Kintner*, *Mr. Floyd O. Collins* and *Mr. Peter J. Dias* for the Commission.

*Javits, Levitan & Held*, of New York City, for National Paper Trade Association of the United States, Inc., and various officers and members thereof, and along with—

*Mr. George E. Landis*, of Columbus, Ohio, for The Central States Paper Trade Ass'n, John L. Richey, Diem & Wing Paper Co., Cincinnati Cordage and Paper Co., Indiana Paper Co., The Middle States Wrapping Paper Ass'n, The Globe Paper Co., National Paper and Twine Co. and The Central Ohio Paper Co.;