

Complaint

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IN THE MATTER OF

EDWARD McSWIGGAN DOING BUSINESS AS UNIVERSAL
TRAINING SERVICECONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6845. Complaint, May 5, 1955—Decision, Sept. 17, 1955*

Consent order requiring seller of a correspondence course in Miami, Fla., to cease representing falsely that his "Universal Training Service" was sponsored by the Government or was a branch of the Civil Service Commission, that his course must be taken for a civil service job, which one might obtain near home, that persons in U. S. Civil Service jobs were exempt from military service, etc.

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

Mr. Morton Nesmith for the Commission.

Smith, Risting & Smith, of Washington, D. C., 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 Edward McSwiggan, trading as Universal 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 Edward McSwiggan is an individual trading and doing business as Universal Training Service with his office and principal place of business located at 1872 N. W., 7th Street, Miami 52, Florida.

Said respondent is now and has been for more than two years last past engaged in the sale and distribution of a course of study and instruction intended for preparing students thereof for examination for certain civil service positions in the United States Government which said course is pursued by correspondence through the United States mails. Respondent, in the course and conduct of said business, causes said course to be transported from his said place of business in the State of Florida, to, into and through States of the United States other than Florida to purchasers thereof located in such other States. Prior to establishing his principal office and place of business

in the State of Florida, as aforesaid, respondent maintained his main office and place of business in the City of Wilmington and State of Delaware and caused his said course of study to be transported, in the manner aforesaid, to purchasers thereof located in States other than Delaware.

There has been at all times mentioned herein a substantial course of trade in said course of instruction so sold and distributed by respondent in commerce between and among the various States of the United States.

PAR. 2. In connection with the sale of said course of study, respondent has made and is making use of postal cards and printed circular letters distributed to prospective students and enrollees in the several States in which said course is sold, in and by which many representations have been and are made in regard to said course and matters and things connected therewith. Typical representations made on said postal cards and circular letters distributed as aforesaid, are the following:

Do You Want To Prepare
For A Government Job?

Civil Service Examinations For
Government Jobs Are Announced
Frequently!!!

Go after one of these positions. Act Now! Get full information without obligation on Government Work. LEARN THE FACTS about minimum requirements, examinations, and salaries paid. Full information about application forms, how to properly execute them, where to send them for best results will be promptly furnished to you. You will be given information to successfully pass a civil service examination.

BE PREPARED TO GET ON UNCLE SAM'S PAYROLL

Please furnish me with FREE INFORMATION on how to get a GOVERNMENT JOB. I have checked the positions which appealed to me. * * *

File Clerk	Air Postal Service	Secretary
Statistical	Rural Mail Carrier	Billing Typist
Receptionist	City Mail Carrier	Correspondent Typist
Travel Clerk	Forest and Field Service	Telephone Operators
Personnel	Stock Clerk	Accounting Clerk
Rating Clerk	Storekeeper	Production Clerk
Payroll Clerk	Customs Inspector	Securities Clerk
Correctional Officer	Immigrant Inspector	Bookkeeper Clerk
Stenographer	Typist	Bookkeeper Typist
Post Office Clerk	Librarian	Social Worker
Railway Postal Service		

Proper methods of study for your examination are suggested, with guaranteed results.

There is a place for you in government service.

Department of Administration

From the Office of Universal Training Service

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We have before us a card submitted to this office by you bearing your name asking for information concerning the possibilities for you to prepare for some phase of activity under Civil Service. * * *

We have a representative * * * who will call upon you within the near future to interview you personally concerning your qualifications for this training. * * *

You will find our representative to be a man thoroughly trained in his duties. He carries with him properly authorized credentials. * * *

We feel confident that you will understand and appreciate the fact that our agent's time is very limited which may prevent his making but one direct contact with you.

Department of Instruction
Field Registrar

PAR. 3. By means of the foregoing statements and representations and others of the same import not herein specifically set out, respondent represented and implied:

1. That his said business is a branch of, or connected with, the United States Government or the United States Civil Service Commission.

2. That the positions listed by respondent on said postal card are open and available to all persons who pass a civil service examination; and that upon completion of respondent's course of study such positions are guaranteed.

3. That respondent maintains an educational institution consisting of various departments, including a Department of Administration and a Department of Instruction.

4. That respondent's agents or representatives, sometimes designated as field registrars, are highly trained and capable of determining the qualifications of applicants for civil service positions after personal interviews with such applicants.

5. That the time of respondent's agents or representatives is so limited that said persons can make only one call on each prospect.

6. That the credentials carried by said agents or representatives are issued by the United States Civil Service Commission.

PAR. 4. In the course and conduct of said business, as aforesaid, respondent employs sales agents or representatives who call upon prospective purchasers and endeavor to sell said course of study.

In the course of such solicitations said sales agents or representatives orally represent and imply to prospective purchasers of said course of study:

1. That Universal Training Service is connected with, or is a branch of the United States Civil Service or the United States Government or some agency thereof;

2. That said school is a non-profit organization and sponsored by the United States Government or the Civil Service Commission for

the purpose of training and preparing applicants for civil service positions;

3. That respondent's sales agents are representatives or employees of the United States Civil Service Commission or have some connection therewith;

4. That prospective students or purchasers of said course have been especially recommended or selected;

5. That completion of respondent's course of study makes persons eligible for appointment to, or assures them of, or guarantees, United States Civil Service Positions;

6. That after completion of said course, enrollees are assured of employment immediately or within a short time;

7. That persons completing respondent's course of study may obtain employment in the civil service at or near their homes or within a short distance therefrom;

8. That purchasers of said course will receive specialized training for specific positions;

9. That respondent's course of study must be taken and completed in order to obtain civil service positions, or that such positions are difficult to obtain without having taken said course;

10. That the time of the sales agent is limited and that unless a prospect enrolls at the time of said agent's visit he will lose the opportunity to enroll;

11. That enrollees who do not have the experience, or the physical, mental or educational qualifications or veterans' status required in many positions for which respondent offers training, may nevertheless qualify for examination and be employed in such positions;

12. That persons employed in jobs under United States Civil Service are exempt from military service.

PAR. 5. All of said statements, representations, implications and practices were and are grossly exaggerated, false, deceptive and misleading. In truth and in fact:

Neither respondent, nor his school, nor any of his agents or representatives are connected in any manner whatsoever with the United States Civil Service, the United States Government or any agency thereof.

While there may be frequent announcements for civil service examinations, there are many positions, including those specifically listed on respondent's postal card, which 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.

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Positions in the postal service are restricted to persons living within the area of a given post office and, almost invariably, appointments are made to substitute clerk and substitute carrier positions. No examinations have been announced for the position of storekeeper for years and none is contemplated. Positions in the Customs Service are restricted to men only, and most of those positions are open only to veterans. Positions in the Immigration Service and of Correctional Officers are restricted to veterans and require special training. Examinations for positions in the Forest Service have not been announced for a number of years and, moreover, require special qualifications and training.

Other positions listed by respondent, such as librarian, Social Worker, and Personnel Officer, require special educational or experiential qualifications.

The completion of said course of study does not make enrollees eligible for appointment to said positions or assure them of, or guarantee them appointment to, United States Civil Service positions immediately or at any time after completing said course of study.

Respondent does not maintain separate Departments of Education and Administration in the sense in which such designations are understood in the field of education, and his business is not an educational institution but a commercial enterprise devoted to the sale of a correspondence course for preparing students for civil service examinations in the basic subject of general information.

Respondent's agents or representatives are salesmen employed to sell correspondence courses of study on a commission basis, and not registrars, with duties or responsibilities ordinarily incumbent upon officers of educational institutions employed and designated as registrars; nor are said salesmen qualified to determine the eligibility of applicants for civil service positions.

Prospects do not lose the opportunity to enroll because sales agents are pressed for time and will not return for further solicitation, but may enroll at any time they choose.

The credentials issued by respondent to his agents or representatives are merely identifications; but the use of a photograph of the agent or representative and the general appearance of said identification and the designation "credentials" as well as the manner of presenting the same to prospects, implies that they have been issued by the United States Civil Service Commission.

Said school is not a non-profit organization and is not sponsored by the United States Government or any agency thereof for the training of applicants to civil service positions. On the contrary,

respondent is engaged solely in the operation of a private business for profit.

Prospective purchasers of said course are not especially selected or recommended by anyone; on the contrary, respondent sells said course to any person solicited who is willing and able to pay therefor.

The taking and passing of an examination for a particular position does not assure immediate employment, for the reason that appointments are subject to various conditions, including the availability of eligible persons in the various civil service districts or regions, the rating of eligibles, veterans preferences and various other conditions.

There is no assurance that persons completing respondent's course of study will obtain employment in the civil service at all or if they pass a civil service examination and obtain employment, that such employment will be at an particular location.

Respondent does not sell separate courses of instruction in specific subjects, such as forestry, but sells only one course in general civil service preparation, as aforesaid.

There is no requirement by the United States Civil Service Commission to take respondent's course in order to qualify applicants for civil service examinations or positions; nor is it difficult for persons to take and pass civil service examinations without having taken said course.

Persons who do not possess the educational, physical or experiential qualifications or veterans' status for positions requiring such qualifications or status, will not be employed in the United States Civil Service by reason of having taken respondent's course of study.

Persons qualified for military service will not be exempt from such service by reason of employment in a position under civil service.

PAR. 6. A majority of prospects solicited by respondent's agents or representatives live in rural and farming areas where information regarding Civil Service and the methods of obtaining employment therein is not readily available. The impression of some form of government connection, originally created by respondent's said sales literature as set forth in Paragraph Three hereof, is furthered and strengthened by the representations made by said agents or representatives as described in Paragraph Four hereof, and in failing to explain the terms of the enrollment contract or afford prospective purchasers the time to read, consider and comprehend said terms.

In many instances said agents or representatives have rushed prospective purchasers into signing respondent's enrollment contract without affording them an opportunity to think over and consider the advisability of enrolling, or reading and understanding the terms and provisions of said contract.

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PAR. 7. The use by respondent of the statements and representations aforesaid has had and now has the tendency and capacity to confuse, mislead and deceive members of the public into the erroneous and mistaken belief that such statements are true and to induce them to purchase respondent's course of study in said commerce 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.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges respondent with violation of the Federal Trade Commission Act through the use of certain practices in connection with the sale of his correspondence courses of study. An agreement has now been entered into by respondent and counsel supporting the complaint which provides, among other things that respondent admits all the jurisdictional allegations in the complaint; that the answer heretofore filed may be withdrawn, and that the complaint and agreement shall constitute the entire record in the proceeding; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission to which respondent may be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if made after a full hearing, presentation of evidence and findings and conclusions thereon, respondent specifically waiving any and all right, power and privilege to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided by the Federal Trade Commission Act for other orders of the Commission; and that the signing of the agreement is for settlement purposes only, and does not constitute an admission by respondent that he has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an appropriate basis for settlement and disposition of the proceeding, the agreement is hereby accepted and made a part of the record, the following jurisdictional findings made, and the following order issued:

1. Respondent Edward McSwiggan is an individual doing business under the name of Universal Training Service, with his place of business located at 1872 N. W. 7th Street, Miami, Florida.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the interest of the public.

ORDER

It is ordered, That the respondent, Edward McSwiggan, individually and doing business under the name of Universal Training Service, or any other name, and his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act of courses of study and instruction, do forthwith cease and desist from:

1. Representing, directly or by implication:

(a) That respondent, his school, his agents or representatives, or any one of them, have any connection with the United States Civil Service Commission or any other agency of the United States Government.

(b) That any civil service position is open to all persons, unless such is the fact.

(c) That the completion of respondent's course of instruction assures or guarantees a civil service position.

(d) That prospective students lose the opportunity to enroll for respondent's course of study unless they enroll at the time of the first visit of respondent's agent or representative.

(e) That respondent's school is a non-profit organization or is sponsored by the United States Government or any agency thereof.

(f) That every prospective student or purchaser of respondent's course of study is especially recommended or selected.

(g) That completion of respondent's course of study makes persons eligible for appointment to, or assures them of, or guarantees them United States Civil Service positions or employment immediately or at any time.

(h) That there is any assurance that persons who complete respondent's course of study and obtain civil service positions will be employed at any particular location.

(i) That respondent's course of study must be taken in order to qualify for civil service positions or that it is difficult to obtain such positions without taking respondent's course of study.

(j) That civil service requirements as to veterans' status, physical, mental, educational and experiential qualifications do not apply to persons taking respondent's course of study.

(k) That persons holding positions under the United States Civil Service are exempt from service in the Armed Services.

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2. Using the word "registrar" or any word of similar import to designate or describe respondent's agents or representatives; or otherwise representing that respondent's agents or representatives perform the functions usually performed by officers of educational institutions known as registrars.

3. Soliciting, procuring or accepting contracts for respondent's course of study, without permitting prospects to read the same over fully and thoroughly.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 17th day of September, 1955, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein shall within sixty (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.

Findings

IN THE MATTER OF
NORTH SHORE PRODUCTS COMPANY, INC., ET AL.
ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL
TRADE COMMISSION ACT

Docket 6154. Complaint, Dec. 23, 1953—Decision, Sept. 19, 1955

Order requiring sellers in Skokie, Ill., of electric coffee sets, wrist watches, and other articles, to cease selling such merchandise by means of a game of chance, and supplying push cards or lottery devices designed or intended to be used in the sale or distribution thereof to the public.

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

Mr. Arthur H. Schwab and *Nash, Ahern & McNally*, of Chicago, Ill., for respondents.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on December 23, 1953, issued and subsequently served its complaint 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 said Act. Respondents filed their answer in due course whereupon hearings were held at which testimony and other evidence in support of the allegations of said complaint were received by the above-named Hearing Examiner theretofore designated by the Commission, said testimony and evidence being duly recorded and filed in the office of the Commission. Respondents, aside from cross-examination of the one witness heard in the proceeding, offered no testimony or other evidence in opposition to the complaint.

Thereafter the proceeding came on for final consideration by the Hearing Examiner on the complaint, the answer, testimony and other evidence, proposed findings as to the facts and conclusions not having been requested nor submitted by counsel on either side, and oral argument not having been requested; and the Hearing Examiner, having duly considered the record herein, finds that this proceeding is in the public interest and makes the following findings as to the facts, conclusions drawn therefrom, and order:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, North Shore Products Company, Inc., is a corporation organized and doing business under and by virtue of