

Decision

IN THE MATTER OF

R. D. ANDERSON DOING BUSINESS AS GUARANTEED
SILVERWARE DISTRIBUTORS AND AMERICAN
SILVERWARE BUREAUORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6200. Complaint, Apr. 8, 1954—Decision, May 17, 1956*

Order requiring a seller in Mayfield, Ky., of silverware and certificates redeemable in silverware, to cease representing falsely through his agents employed to solicit retail dealers—

- (1) That he was the agent of the International Silver Co. which had adopted a redeemable certificate sales plan to advertise its well-known "Rogers Bros. 1847" silverware, and that that brand of silverware would be furnished to holders of certificates;
- (2) That he would furnish to the purchaser of certificates a complete set of 52 matched pieces of such silverware in a tarnish-proof chest for display purposes, after which it would be the property of the purchaser; and
- (3) That dealers approached by his salesmen had been specially selected by him to distribute such certificates in a specific trade area and that the redemption plan would be made available to only one purchaser in that area.

Mr. Frederick McManus for the Commission.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on April 8, 1954, issued and subsequently served its complaint upon the respondent named in the caption hereof, charging him with the use of unfair and deceptive acts and practices and unfair methods of competition in commerce within the intent and meaning of said Act. On June 1, 1954, respondent filed answer to the complaint which, in effect, denied those allegations of the complaint charging violations of the Act.

Thereafter hearings were held in regular course at which testimony and other evidence in support of the allegations of the complaint were received by the above-named Hearing Examiner theretofore designated to act by the Commission, said testimony and evidence being duly recorded and filed in the office of the Commission. Respondent, while exercising his right of cross-examination of Commission witnesses, offered no testimony or evidence in opposition to the charges contained in the complaint.

On May 10, 1955, counsel in support of the complaint rested his case in chief and on September 19, 1955, at a regularly scheduled hear-

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ing, the respondent personally appeared and executed and filed an "Admission Answer," duly placed of record herein, by the specific terms of which he: (1) withdrew his denial answer filed June 1, 1954, as aforesaid; (2) admitted all of the material allegations of fact set forth in the complaint; (3) waived further hearings as to said facts; (4) waived all intervening procedure, and, (5) agreed that the Hearing Examiner proceed to an initial decision and an order to cease and desist.

Thereafter the Hearing Examiner proceeded with his consideration of the case on the basis of the record, consisting of the complaint and admission answer (and not considering the testimony and evidence so as aforesaid of record, the Hearing Examiner being of opinion that such consideration thereof is not necessary in order to arrive at a decision and the issuance of a proper order) and finds that this proceeding is in the public interest wherefore he makes the following findings as to the facts, conclusions drawn therefrom, and order:

FINDINGS AS TO THE FACTS

1. R. D. Anderson is an individual doing business as Guaranteed Silverware Distributors and American Silverware Bureau, with a place of business at 1210 South 10th Street, Mayfield in the State of Kentucky. Respondent is now, and for five years last past has been, engaged in the sale and distribution in commerce among and between the various States of the United States and in the District of Columbia of silverware and certificates, cards or coupons redeemable in silverware.

2. Respondent, in the course and conduct of his business and in order to promote the sale of his silverware, has adopted a scheme or plan which provides that retail dealers may purchase from him certificates, cards or coupons which he agrees to accept, together with a stipulated sum of money, in payment for silverware. Respondent agrees to cause to be imprinted upon said certificates, cards or coupons the firm name of the retail dealers who purchase said certificates, cards or coupons and said retail dealers agree to furnish or give said certificates, cards or coupons to the retail dealers' customers as a premium for purchases of merchandise from said retail dealers. Respondent agrees to remit to said retail dealers a bonus or commission of 15% of the amounts received by respondent from the retail dealers' customers in payment for silver and to give a set of 52 pieces of matched silverware to each retailer who purchases 20,000 certificates, cards or coupons.

3. Respondent causes such silverware and certificates, cards or coupons with which such silverware is redeemable, to be shipped and

transported from respondent's place of business in the State of Kentucky to purchasers thereof located in various other States of the United States and the District of Columbia. Respondent maintains a constant current of trade and commerce among and between the various States of the United States and the District of Columbia, in the sale and distribution of said silverware and certificates, cards or coupons.

4. Respondent, in the course and conduct of said business, is now, and at all times herein referred to has been, in substantial competition with other individuals and with corporations, partnerships and firms engaged in the sale and distribution of silverware and certificates, cards or coupons redeemable in silverware.

5. It is, and has been, the practice of respondent, when carrying on his business under the trade names hereinabove described, to employ agents or salesmen to solicit retail dealers. Said agents or salesmen, acting in the scope of their employment and under the direction and supervision of said respondent in connection with the offering for sale and selling said certificates, cards or coupons have represented to the prospective purchaser, to induce said purchaser to purchase said certificates, coupons or cards, that the respondent, doing business as Guaranteed Silverware Distributors and American Silverware Bureau, is the agent of or connected with the International Silver Co., manufacturer of silverware, and that said manufacturer has adopted a redeemable certificate, card or coupon sales plan as a method of advertising its well known "Rogers Bros. 1847" silverware and that the silverware furnished to the holders of certificates, and/or coupons will be said brand; that respondent will furnish to the purchaser of certificates, cards or coupons, a complete set of 52 matched pieces of such silverware in a tarnish proof chest for display purposes after which same will be the property of the purchaser; that dealers approached by respondent's salesmen have been specially selected by respondent to distribute such certificates, cards or coupons in a specific trade area and that the silverware redemption plan will be made available to only one purchaser in such trade area.

6. All of said representations as above set forth and many other similar representations not specifically mentioned herein are deceptive, false and misleading in material respects. In truth and in fact, the respondent is not in any manner connected with any manufacturer of silverware except as a purchaser of silverware. The certificates, cards or coupons sold by respondent are not an advertising method adopted by any manufacturer of silverware but are a scheme promulgated by respondent to sell silverware. The silverware sold by respondent is not "Rogers Bros. 1847" silverware but is "Rogers &

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Bros." a different and less expensive brand of silverware. The silverware furnished to purchasers of respondent's certificates, cards or coupons are not complete sets of silver or of the same style and pattern and consist of substantially less than 52 pieces. The chests in which the silver is contained are not tarnish proof. Dealers offered the certificates, cards or coupons and the silver redemption plan are not specially selected. On the contrary, respondent offers to sell and sells said certificates, cards or coupons and makes the redemption plan available indiscriminately wherever he can find a purchaser.

7. The use by respondent of the foregoing false, misleading and deceptive statements has the capacity and tendency to lead retailers into the erroneous and mistaken belief that said statements and representations are true and into the purchase of substantial quantities of respondent's silverware redemption certificates, cards or coupons because of such erroneous and mistaken belief. As a result thereof substantial trade in commerce has been unfairly diverted to respondent from his competitors and substantial injury has been done to competition in commerce.

CONCLUSION

The aforesaid acts and practices of the respondent as herein found are all to the prejudice and injury of the public and of respondent's competitors and constitute unfair and deceptive acts and practices, and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER

It is ordered, That the respondent, R. D. Anderson, doing business as Guaranteed Silverware Distributors, or American Silverware Bureau, or under any other name, and respondent's agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of certificates, cards, coupons, or silverware, or any other merchandise, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing in any manner that he is agent for, or representative of, or is in any other manner connected with, the International Silver Company or any other manufacturer of silverware.

2. Representing that the said certificates, cards, or coupons are a part of, or connected in any way with, any sales plan or method of advertising adopted by any manufacturer of silverware or by anyone other than the respondent.

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3. Representing that the silverware which will be furnished to purchasers of the said certificates, cards, or coupons or to the holders thereof, is any different brand, or is any different in style or quantity, or in any other way, from that which is actually furnished or that the chests furnished to said purchasers are tarnish proof.

4. Representing that the retail dealers to whom said certificates, coupons, or cards are offered are especially selected or that respondent's silverware redemption plan will be made available to only one purchaser in any given trade area.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Sec. 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 17th day of May 1956, 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.

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IN THE MATTER OF

ROBERT G. BUSSE TRADING AS LINCOLN INSTITUTE
AND LINCOLN TRAINING SERVICECONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6413. Complaint, Sept. 14, 1955—Decision, May 17, 1956*

Consent order requiring a Pekin, Ill., seller of correspondence courses intended to prepare students for Civil Service examinations, to cease falsely representing, on postal cards and circular letters and by statements of sales agents, that his school was connected with the United States Civil Service Commission, that completion of his course guaranteed graduates positions therein and in desired geographical locations, that vacancies existed, and that starting salaries were higher than was the fact; and to cease misrepresenting the character of his school through use of the word "Institute" in his trade name, among other things.

Before *Mr. Robert L. Piper*, hearing examiner.

Mr. William A. Somers for the Commission.

Mr. E. B. Green, of Pekin, Ill., 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 Robert G. Busse, an individual trading as Lincoln Institute and Lincoln 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 Robert G. Busse is an individual trading and doing business as Lincoln Institute and Lincoln Training Service, with his principal place of business located at 514 Court Street, Pekin 1, Illinois.

PAR. 2. Respondent is now, and for more than one year last past has been, 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 of study and instruction to be sent from his place of business in the State of Illinois to, into and through

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various other States of the United States to purchasers thereof located in such other States.

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

PAR. 3. In connection with the sale of said course of study and instruction respondent has made, published and caused to be published, certain advertising material, including postal cards and printed circular letters, distributed to prospective students in States other than the State of Illinois, in and by which many representations have been made and are made in regard to said course of study and matters and things connected therewith. Typical representations made in such advertising are the following:

I AM VERY MUCH INTERESTED IN CIVIL SERVICE. I am a United States Citizen. Please send full information and list of positions.

THOUSANDS OF MEN AND WOMEN NEEDED. Prepare Now for GOVERNMENT POSITIONS. Start High as \$4,479.00 First Year. Men and Women Ages 18 to 50 THIS IS YOUR OPPORTUNITY!! Civil Service Offers Security, Good Salaries, Pay Raises, Promotions, Paid Sick Leave, Long Vacations with Pay, Liberal Pensions.

Prepare now for examinations in your vicinity. Grammar school sufficient for many jobs. Stay on present job while training. Instruction now available if you qualify. Some of the hundreds of different jobs are:

Rural Mail Carriers	Stenographers
Post Office Clerks	Typists
Mail Carriers	Ass't Meat Inspectors
Railway Mail Clerks	Livestock Inspectors
Border Patrolmen	Accountants
Customs Service	Internal Revenue Service
Forest Service	Immigration Service
Guards	Store Keepers
Postmasters—2, 3, 4 Cl.	Warehousemen
Clerks	and Many others

Our Field Representatives must adhere to strict schedules. A few days may go by before one of them will call on you. If you must be away from home, be sure to leave word with a member of your family or a neighbor where you can be reached. We want him to make only one call if possible. In the meantime, check three or more positions you are interested in before he arrives. He will let you know whether or not you can qualify.

It is expected that 800,000 to 1,000,000 Federal positions will be available during the next few years. Written examinations will be held for many permanent Civil Service positions, and both veterans and non-veterans will be eligible for appointment.

* * *

Clerks, Storekeepers, Inspectors, Guards, Forest Rangers, Rural Mail Carriers, City Carriers, Stenographers, Typists and many, many other types of workers are employed by the thousands.

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Respondent disseminates to prospective purchasers of his said course of study a list of Civil Service positions setting out representations as to Age, Education, and Salaries with respect to positions in the Postal, Law Enforcement, Clerical, Accounting, Custodian, and other services, and the following direction:

Some Typical Civil Service Positions

Look over this list thoroughly. Check the age and educational requirements. In this way you can select the positions you believe you are fitted for. Our Field Representative will advise you whether or not you can qualify.

Men and women	Age	Education	Salaries up to—
POSTAL POSITIONS			
Post office clerk.....	18-50	Grammar school.....	\$4,070
Rural mail carrier.....	18-50	do.....	5,412
Postmaster:			
2d class.....	21-62	do.....	5,370
3d class.....	21-62	do.....	4,298
4th class.....	21-62	do.....	2,380
CLERICAL POSITIONS			
Clerk-accounting, information and receptionist, customs, filing, mail, personnel, purchasing and procurement, leave and payroll, supply, time, traffic and transportation:			
Grade 1.....	18-62	do.....	2,980
Grade 2.....	18-62	do.....	3,230
Grade 3.....	18-62	do.....	3,430
Grade 4.....	18-62	do.....	3,655
Grade 5.....	18-62	do.....	4,160
Grade 6.....	18-62	do.....	4,545
Stenographer-Typist.....	18-62	do.....	3,655
Typist, junior.....	18-62	do.....	3,230
Messenger.....	18-25	do.....	2,980
Business machine operator.....	18-53	do.....	3,430
Clerk-stenographer.....	18-53	do.....	4,160
OTHER POSITIONS			
Accountant and auditor.....	18-62	High school.....	4,160
Statistical clerk.....	18-62	do.....	3,430
Junior professional assistant.....	18-35	University.....	4,160
Library assistant.....	18-62	High school.....	3,430
Student nurse.....	18-30	do.....	2,200
Hospital attendant.....	18-45	Grammar school.....	3,430
POSTAL POSITIONS			
Postal transportation clerk (railway, air, boat, and highway).....	18-35	do.....	4,270
City mail carrier.....	18-50	do.....	4,070
LAW-ENFORCEMENT POSITIONS			
Inspector of customs.....	21-45	do.....	4,545
Patrol inspector, trainee.....	21-35	do.....	4,955
Port patrol officer.....	21-45	do.....	4,035
Immigration inspector.....	21-45	do.....	4,545
Meat inspector.....	18-62	do.....	3,430
Livestock inspector.....			
Virus serum inspector.....	21-62	do.....	3,655
Guard-patrolman.....	21-45	do.....	4,035
Correctional officer.....	21-35	do.....	4,160
Security inspector (atomic energy).....			
OTHER POSITIONS			
Zone deputy collector.....	18-62	High school.....	4,160
Storekeeper.....	18-62	Grammar school.....	4,545
Stock clerk.....	18-62	do.....	3,655

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"LINCOLN INSTITUTE

Preparation for Successful Civil Service Careers

Federal—State—Municipal

Robert G. Busse, B. S. M.B.A.

Director.

Pekin 1, Illinois

* * * * *

Postage will be paid by

"LINCOLN INSTITUTE

P. O. Box 390

Pekin, Illinois.

Executive Offices

PAR. 4. By means of the foregoing representations and others similar thereto but not herein specifically set out, and by the use of the trade name Lincoln Institute, and by use of the words and phrases "Director" and "Executive Officer," respondent represents and implies that his said business is a branch of, or connected with, the United States Government or the United States Civil Service Commission; that many positions in the United States Civil Service are vacant, including those specifically listed in said "Some Typical Civil Service Positions," and are available to all applicants; that many thousands of appointments will be made during the next few years; that veterans and non-veterans can qualify therefor and that successful application therefor can be effectuated through respondent's course of study; that salaries are as high as \$5,412.00 a year and that a grammar school education is the only thing necessary, together with the respondent's course of instruction; that checking said list will enable prospective students to determine for what positions they are qualified and that respondent's so-called Field Representatives are qualified and competent to advise said prospects as to their qualifications for positions in the Civil Service.

PAR. 5. 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 courses of study.

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

1. That Lincoln Institute and Lincoln Training Service are connected with, or are branches of the United States Civil Service or of the United States Government or some agency thereof;

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

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

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

5. That persons completing respondent's course of study are assured of obtaining passing grades in Civil Service examinations; that they will be qualified for Civil Service positions; that they are assured of obtaining employment in the Government; that they will obtain employment in geographical areas selected by them.

PAR. 6. 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 in respondent's advertising and postal cards and circulars, 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. The starting salaries for positions listed by respondent are, in many instances, substantially less than stated. 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 or in any particular location.

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.

PAR. 7. The use of the word "Institute" in the trade name of respondent is misleading in that it implies the operation of a resident institute of learning with a staff of competent, experienced and qualified educators offering instruction in philosophy, the arts, sciences and other subjects of higher learning.

In truth and in fact, respondent does not operate an "Institute" in the accepted sense of that term. Respondent offers no training or instruction in philosophy, the arts, sciences or the learned subjects. No basic, thorough or competent instruction is given in residence in any subject of learning by competent and qualified educators. The subject matters in which respondent's students are prepared are not of the extent properly to be included in the term of higher education.

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Respondent's course of study is given exclusively by correspondence and consists of a series of lessons on a general information type of Civil Service examination.

PAR. 8. Respondent is now, and at all times mentioned herein has been, in substantial competition with other individuals and with corporations, partnerships and firms engaged in the sale in commerce of courses and instructions by correspondence.

PAR. 9. The use by the respondent of the aforesaid statements and representations 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. As a direct result of the practices of respondent, as aforesaid, substantial trade in commerce is and has been diverted to respondent from their competitors and injury has been and is done to competition in commerce between and among the various States of the United States.

PAR. 10. The aforesaid acts and practices of respondent, as herein alleged, are all to the prejudice and injury of the public and of competitors of respondent and constitute unfair and deceptive acts and practices and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondent on September 14, 1955, charging him with having violated the Federal Trade Commission Act. After being served with said complaint, respondent appeared by counsel and entered into an agreement, dated March 21, 1956, containing a consent order to cease and desist, disposing of all the issues in this proceeding without hearing. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with Section 3.25 of the Rules of Practice of the Commission.

Respondent, pursuant to the aforesaid agreement, has admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said agreement further provides that respondent waive all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions of law and the right to challenge or contest the validity of the order to cease and desist entered in ac-

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cordance with such agreement. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, that said 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, that said order to cease and desist shall have the same force and effect as if entered after a full hearing and may be altered, modified or set aside in the manner provided for other orders, and that the complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing the consent order, and it appearing that the order and agreement cover all of the allegations of the complaint and provide for appropriate disposition of this proceeding, the same are hereby accepted and ordered filed upon becoming part of the Commission's decision pursuant to Sections 3.21 and 3.25 of the Rules of Practice, and the hearing examiner accordingly makes the following findings, for jurisdictional purposes, and order:

1. Respondent is an individual, doing business under the trade names of Lincoln Institute and Lincoln Training Service, with his office and principal place of business located at 514 Court Street, in the City of Pekin, State of Illinois.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent hereinabove named. The complaint states a cause of action against said respondent under the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That the respondent, Robert G. Busse, individually and doing business under the name of Lincoln Institute and Lincoln 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, intended for preparing students thereof for examination for Civil Service positions under the United States Government, or any similar courses of study, do forthwith cease and desist from:

1. Representing, directly or by implication:

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

(b) That the completion of respondent's course of instructions assures or guarantees a position in the United States Civil Service or makes them eligible for appointment to such position.

(c) That positions in said Civil Service may be obtained through respondent's school after completion of the course of instruction immediately or at any time.

(d) That persons who complete respondent's course of instruction are assured of obtaining passing grades in Civil Service examinations or that they will be qualified for Civil Service positions.

(e) That there is any assurance that persons who complete respondent's course of instructions and obtain Civil Service positions will be employed in any particular geographical area.

(f) That any specific Civil Service positions are available to all applicants or that any Civil Service position which requires appointees to have veterans status or certain physical, mental, educational or experiential qualifications is generally available and may be obtained by persons not meeting such requirements.

(g) That vacancies exist in, or that appointments will be made to, any United States Civil Service position contrary to fact; or that the number of positions available or vacant or to which appointments will be made in said Civil Service or any branch thereof is greater than is actually the fact.

(h) 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.

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

2. Using the words and phrases of "Director," "Executive Offices," or representing by any similar means, that his business has any connection with the United States Government or any branch or agency thereof.

3. Using the word "Institute" or any word or term of similar import or meaning as part of respondent's trade name, or as a part of the name of the respondent's school.

4. Soliciting, procuring or accepting contracts for respondent's course of study, without permitting prospects to read the same fully and thoroughly before the signing of such contract by the prospect.

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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 May 1956, 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.

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IN THE MATTER OF

NATIONAL CASUALTY COMPANY

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

Docket 6311. Complaint, Mar. 11, 1955—Decision, May 21, 1956

Order requiring an insurance company with main office at Detroit, Mich., selling policies through some 350 to 400 independent insurance agencies throughout the nation, to cease misrepresenting the duration, coverage, and benefits of its accident and health insurance policies, and the physical requirements for policyholders in printed brochures and advertising matter sent to agents for use in soliciting prospects.

Mr. J. W. Brookfield, Jr. and Mr. Donald K. King for the Commission.

Mr. John F. Langs, of Detroit, Mich., for respondent.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Complaint herein issued March 11, 1955, charging respondent with misrepresenting its accident and health policies by soliciting their sale through printed brochures and advertisements which stressed or mentioned only maximum benefits or coverage while omitting actual policy exclusions or limitations thereby deceiving or misleading prospects into purchasing policies not as extensive or secure as they believed, in violation of Section 5 of the Federal Trade Commission Act (Title 15, U.S.C.A. 45). Answer admitted descriptive facts alleged and denied misrepresentation, and jurisdiction to proceed.

On the issues joined two hearings were held to complete proponent's proof, at the close of which respondent's counsel moved to dismiss the complaint for lack of jurisdiction and insufficient proof to constitute a prima facie case. The jurisdictional attack was two-pronged and founded on the language of so-called Public Law 15, 79th Congress (Title 15, U.S.C.A. 1011-15). The contentions were that since respondent is a Michigan corporation and Michigan by statute expressly prohibits the acts alleged in the complaint there was none of respondent's business that was not "regulated by State law," and that even if the Michigan statute be held to have no extraterritorial regulation that, nevertheless, respondent's business was fully regulated by the separate law of each state where it does business. The first contention was denied substantively, the second solely because at least one state where respondent does business, Mississippi, admittedly has no regulation whatever. The second ground of the motion that no prima