

IN THE MATTER OF
POST GRADUATE HOSPITAL SCHOOL OF NURSING,
INC., ET AL.

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

Docket 6437. Complaint, Nov. 7, 1955—Decision, Nov. 1, 1956

Consent order requiring Chicago sellers of correspondence courses in practical nursing to cease representing falsely the ease of learning nursing as taught by their course and the time and attention required; educational qualifications required; opportunities and earnings assured persons completing the course and their eligibility for state licensing examinations, and employment by hospitals and institutions or in good positions located by respondents; that the course was conducted by personnel of an accredited resident school of nursing and included an optional week of residence hospital training with live patients; and that respondent was a hospital conducting a nursing school.

Mr. William A. Somers for the Commission.

Frank E. & Arthur Gettleman, of Chicago, Ill., for respondents.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on November 7, 1955, charging them with having violated the Federal Trade Commission Act by making false and misleading representations concerning their correspondence course in practical nursing. Respondents appeared by counsel, filed answer to the complaint, hearings were held, and thereafter respondents entered into an agreement, dated June 11, 1956, containing a consent order to cease and desist, disposing of all the issues in this proceeding, which agreement has been duly approved by the Director of the Bureau of Litigation. 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.

Respondents, pursuant to the aforesaid agreement, have 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 respondents 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 accordance with such agreement. It has also been agreed that the answer shall be withdrawn and 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 respondents that they have 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 Post Graduate Hospital School of Nursing, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Illinois, and respondent Herbert L. Kellner is President of said corporate respondent, with their office and principal place of business located at 431 South Wabash Avenue, Chicago, Illinois.

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

ORDER

It is ordered, That respondents, Post Graduate Hospital School of Nursing, Inc., a corporation, and Herbert L. Kellner, individually and as an officer of said corporation, their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of a course of instruction in practical nursing, or any similar or related course of instruction in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That practical nursing may be learned at home in a short time by devoting only part-time attention to said study, or that respondents' course is a complete course in practical nursing or that respondents' course is anything other than their entire course in practical nursing.

2. That persons completing respondents' course are trained or professional practical nurses or have the privileges, benefits and responsibilities which accompany those titles.

3. That some high school education, or an equivalent qualification, is not required to become a trained practical nurse.

4. That persons completing respondents' course will as a result thereof be able to command or receive, either through their own efforts or through respondents' efforts on their behalf, exceptional wages or high-paying positions for their services as practical nurses.

5. That persons completing respondents' course will be eligible to apply for or to take licensing examinations in any State.

6. That the diploma given by respondents to persons completing their course will aid, advance or further their nursing careers, except as evidence of completion of respondents' course of study in practical nursing.

7. That the residence course offered by respondents in conjunction with their correspondence course in nursing consists of actual hospital work on live patients unless and until such is a fact.

8. That respondents' nursing course is recognized or accepted by the nurses licensing authorities of the various States of the United States, or any one of said States.

9. That persons completing respondents' course of instructions are eligible for employment or will be employed as practical nurses by hospitals or institutions unless it is clearly revealed that such persons will not be eligible for employment and will not be employed in those states that now have, or may hereafter enact, a law making it mandatory for practical nurses to be licensed and that such persons will not be eligible for employment and will not be employed in most of the hospitals and institutions in other states as practical nurses.

10. That respondents' course is given, graded or supervised by the staff of a fully accredited or accepted resident school of nursing.

11. By use of the word "Hospital" or any other word or words of similar import or meaning, as a part of a corporate or trade name, or by use of pictorial depictions, or in any other manner, that respondents own, operate or control a hospital, clinic, or any other medical center.

It is further ordered, That the allegations of the complaint that respondents falsely represented that practical nursing is easy to learn and that persons completing their course will be located in good positions secured for them by respondents be and hereby are dismissed.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The hearing examiner having filed on August 17, 1956, his initial decision in this matter based on an agreement containing a consent cease and desist order executed by all parties, and it appearing that said initial decision is adequate and appropriate to dispose of the proceeding:

It is ordered, That the initial decision of the hearing examiner shall, on November 1, 1956, become the decision of the Commission.

It is further ordered, That respondents, Post Graduate Hospital School of Nursing, Inc., and Herbert L. Kellner 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.

IN THE MATTER OF
NEUVILLE, INC., ET AL.

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

Docket 6405. Complaint, Aug. 24, 1955—Decision, Nov. 2, 1956

Order requiring New York City sellers of men's hosiery to cease pre-ticketing their merchandise with exaggerated fictitious prices; and representing falsely that their hosiery had received a meritorious award by use of such names as "Academy Award."

Edward F. Downs, Esq., counsel supporting the complaint.

Emanuel D. Finkelman, Esq., of New York, N.Y., for respondents.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

STATEMENT OF THE CASE

On August 24, 1955, the Federal Trade Commission issued its complaint against Neuville, Inc. and Abner B. Neuville (hereinafter collectively called respondents), charging them with the use of unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act (hereinafter called the Act), 15 U.S.C. 41, *et seq.* Copies of said complaint together with a notice of hearing were duly served upon respondents.

The complaint alleges in substance that respondents, by attaching price labels to their hosiery products, falsely represented that such prices were the regular and usual retail prices of said hosiery; by the use of the name "Academy Award" for their hosiery products, falsely represented that said products had received a meritorious award based upon comparative tests; and by both of such actions, placed in the hands of retailers a means and instrumentality for deceiving and misleading the purchasing public. Respondents appeared by counsel and filed a joint answer admitting the corporate, commerce and competition allegations of the complaint, the attaching of price labels to their products, the use of the name "Academy Award," and the fact that their products had received no meritorious award, but denying all alleged violations of the Act.

Pursuant to notice, hearings were thereafter held before the undersigned hearing examiner, duly designated by the Commission to hear this proceeding, on January 10 and March 14, 1956 in New York City. All parties were represented by counsel, participated in