

FEDERAL TRADE COMMISSION DECISIONS

FINDINGS AND ORDERS, JULY 1, 1959, TO JUNE 30, 1960

IN THE MATTER OF

CHARLES F. GOMEZ TRADING AS
WESTERN COACHING BUREAU ET AL.

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

Docket 7238. Complaint, Aug. 21, 1958—Decisions, July 1 and 4, 1959

Consent orders requiring the supplier and three distributors of a correspondence course on Civil Service preparation to cease representing falsely that they were connected with the U.S. Government and that persons completing the course were guaranteed Government jobs, and to cease misrepresenting the availability and salaries of Civil Service positions.

Before *Mr. Loren H. Laughlin*, hearing examiner.

Mr. Berryman Davis and *Mr. John J. McNally* for the Commission.

Mr. John J. Taheny, of San Francisco, Calif., for Charles F. Gomez and Marie Gomez; *Breed, Robinson & Stewart*, by *Mr. Ned Robinson*, of San Francisco, Calif., for James A. Sundstrom; and *Mr. Roy Huston*, of Milwaukee, Wisc., *pro se*.

INITIAL DECISION AS TO ALL RESPONDENTS EXCEPT RESPONDENT
ROBERT J. GARTNER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on August 21, 1958, issued its complaint herein, charging the respondents named in the caption hereof with having violated the provisions of the Federal Trade Commission Act in the conduct of their business of selling and distributing a course of study and instruction intended for preparing students thereof for certain Civil Service positions in the United States Government. The respondents were duly served with process.

On February 12, 1959, respondents Charles F. and Marie Gomez, their counsel, and counsel supporting the complaint entered into an

Agreement Containing Consent Order To Cease And Desist; on the same date respondent James A. Sundstrom and the respective attorneys also entered into a like agreement; and on March 24, 1959, respondent Roy Huston and counsel supporting the complaint entered into a similar agreement. The three agreements were approved by the Director and an Assistant Director of the Commission's Bureau of Litigation, and thereafter submitted to the hearing examiner for consideration.

On due consideration of such agreements, the hearing examiner finds that said agreements, both in form and in content, are in accord with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and that by said agreements the parties have specifically agreed to the following matters:

1. Respondent Charles F. Gomez is an individual trading and doing business as Western Coaching Bureau, with his office and principal place of business located at 2588 Mission Street, in the City of San Francisco, State of California.

Respondent Marie Gomez is the wife of respondent Charles F. Gomez and acts as his agent in the supervision, direction and operation of the aforesaid business. Her address is the same as that of respondent Charles F. Gomez.

2. Respondent James A. Sundstrom is an individual trading and doing business as Western Training Service, with his office and principal place of business located at 3500 Chinden Boulevard, in the City of Boise, State of Idaho.

3. Respondent Roy Huston is an individual trading and doing business as National Extension Service, with his office and principal place of business located at 436 East Garfield Avenue, in the City of Milwaukee, State of Wisconsin.

4. The remaining respondent Robert J. Gartner, trading as Universal Extension Service, will be disposed of in a later decision.

The respondents in these three agreements admit all the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. The agreements also dispose of all of this proceeding as to the parties signatory thereto.

5. Respondents waive:

- a. Any further procedural steps before the hearing examiner and the Commission;

- b. The making of findings of fact or conclusions of law; and

- c. All of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with these agreements.

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6. The record on which the initial decision and the decision of the Commission as to respondents signatory to these agreements shall be based shall consist solely of the complaint and these agreements.

7. These agreements shall not become a part of the official record unless and until they become a part of the decision of the Commission.

8. These agreements are for settlement purposes only and do not constitute an admission by respondents signatory thereto that they have violated the law as alleged in the complaint.

9. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents. When so entered it shall have the same force and effect as if entered after a full hearing. It may be altered, modified or set aside in the manner provided for other orders. The complaint may be used in construing the terms of the order.

Upon due consideration of the complaint filed herein and the said agreements, the latter are hereby approved and accepted and are ordered filed if and when said agreements shall have become a part of the Commission's decision. The hearing examiner finds from the complaint and the said agreements that the Commission has jurisdiction of the subject matter of this proceeding and of the persons of each of the respondents signatory to such agreements; that the complaint states legal causes for complaint under the Federal Trade Commission Act against each of such respondents, both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreements is appropriate for the just disposition of all the issues in this proceeding as to all of the parties hereto except respondent Robert J. Gartner, trading as Universal Extension Service; and that said order, therefore, should be and hereby is entered as follows:

It is ordered, That respondents Charles F. Gomez, individually and doing business under the name of Western Coaching Bureau, or under any other name; Marie Gomez, individually; respondent James A. Sundstrom, individually and doing business under the name of Western Training Service, or under any other name; and respondent Roy Huston, individually and doing business under the name of National Extension Service, or under any other name, and their 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,

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do forthwith cease and desist from representing, directly or indirectly, that:

1. There are vacancies for any specified United States Civil Service positions, when such vacancies do not exist;
2. Positions in the United States Civil Service which may be open are available to all persons;
3. Positions in the United States Civil Service which are restricted to any group or otherwise restricted or require certain qualifications are open, unless the fact that such restrictions and qualifications exist is clearly set forth;
4. The starting salary, or any other salary, that may be received by persons receiving a Civil Service appointment is higher than is the fact;
5. Their said business, their agents or representatives, or any one of them, has any connection with the United States Civil Service Commission, any agency thereof, or any other agency of the United States Government;
6. Completion of respondents' course of instruction makes persons eligible for appointment to, or assures them of or guarantees United States Civil Service positions.

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 1st day of July 1959, become the decision of the Commission; and, accordingly:

It is ordered, That the above-named respondents, except respondent Robert J. Gartner, trading as Universal Extension Service, 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.

Before *Mr. Loren H. Laughlin*, hearing examiner.

Mr. Berryman Davis and *Mr. John J. McNally* for the Commission.

B. J. Cunningham, Jr., Esq., of *Cunningham & Cunningham*, of Grand Island, Nebr., and of *O'Gara and O'Gara*, of San Francisco, Calif., for respondent Gartner.

INITIAL DECISION AS TO RESPONDENT GARTNER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on August 21, 1958, issued its com-

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plaint herein, charging respondent Robert J. Gartner with having violated the provisions of the Federal Trade Commission Act in the conduct of his business of selling and distributing a course of study and instruction intended for preparing students thereof for certain Civil Service positions in the United States Government. Respondent was duly served with process.

On May 19, 1959, respondent Gartner, his attorney, and counsel supporting the complaint entered into an Agreement Containing Consent Order To Cease And Desist, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently duly approved the same.

On due consideration of such agreement, the hearing examiner finds that said agreement, both in form and in content, is in accord with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and that by said agreement the parties have specifically agreed to the following matters:

1. Respondent Robert J. Gartner is an individual trading and doing business as Universal Extension Service, with his office and principal place of business located at First National Bank Building, in the City of Grand Island, State of Nebraska.

2. Respondent Robert J. Gartner admits all the jurisdictional facts alleged in the complaint and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

3. This agreement disposes of all of this proceeding as to respondent Robert J. Gartner only; and the undisposed portion of this matter is pending before the Commission on an initial decision pertaining to the same.

4. Respondent Robert J. Gartner waives:

(a) Any further procedural steps before the hearing examiner and the Commission;

(b) The making of findings of fact or conclusions of law; and

(c) All of the rights he may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

5. The record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement.

6. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

7. This agreement is for settlement purposes only and does not constitute an admission by respondent Robert J. Gartner that he has violated the law as alleged in the complaint.

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8. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondent Robert J. Gartner. When so entered, it shall have the same force and effect as if entered after a full hearing. It may be altered, modified or set aside in the manner provided for other orders. The complaint may be used in construing the terms of the order.

Upon due consideration of the complaint filed herein and the said "Agreement Containing Consent Order To Cease And Desist," said agreement is hereby approved and accepted and is ordered filed if and when said agreement shall have become a part of the Commission's decision. The hearing examiner finds from the complaint and the said agreement that the Commission has jurisdiction of the subject matter of this proceeding and of the respondent herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act against the respondent Gartner, both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreement is appropriate for the just disposition of all the issues in this proceeding as to all of the parties hereto; and that said order, therefore, should be and hereby is entered as follows:

ORDER

It is ordered, That respondent Robert J. Gartner, individually and doing business under the name of Universal Extension Service, or under 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 representing, directly or indirectly, that:

1. There are vacancies for any specified United States Civil Service positions, when such vacancies do not exist;
2. Positions in the United States Civil Service which may be open are available to all persons;
3. Positions in the United States Civil Service which are restricted to any group or otherwise restricted or require certain qualifications are open, unless the fact that such restrictions and qualification exist is clearly set forth;
4. The starting salary, or any other salary, that may be received by persons receiving a Civil Service appointment is higher than is the fact;

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5. His said business, his agents or representatives, or any one of them, has any connection with the United States Civil Service Commission, any agency thereof, or any other agency of the United States Government;

6. Completion of respondent's course of instruction makes persons eligible for appointment to, or assures them of, or guarantees, United States Civil Service positions.

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 4th day of July, 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Robert J. Gartner, trading as Universal Extension Service, 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.