

IN THE MATTER OF
WILLIAM H. FENNER DOING BUSINESS AS
CENTRAL CAREER SERVICE

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

Docket 8384. Complaint, May 4, 1961—Decision, Sept. 20, 1961

Consent order requiring a Duluth, Minn., seller of a correspondence course on civil service preparation to cease representing falsely in advertising and through salesmen that a person completing his course was qualified for and assured of a U.S. Civil Service position and in the area of his choice, that such openings were available, that he would notify the student of examinations to be held, that the time in which his course could be purchased was limited, etc.

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 William H. Fenner, an individual trading and doing business as Central Career Service, hereinafter referred to as respondent, has violated the provisions of

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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 as follows:

PARAGRAPH 1. Respondent William H. Fenner is an individual trading and doing business as Central Career Service, with his office and principal place of business located at 602 North 56th Avenue West, Duluth, Minnesota.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the sale and distribution of a course of study and instruction purporting to prepare the purchasers thereof for examinations for various 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 his said business, causes said course of study and instruction to be shipped from the state of his supplier to, into, and through various other states of the United States to purchasers thereof located in states other than the state in which said shipments originate and thereby maintains a course of trade in said course in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of his business, as aforesaid, respondent has been, and now is, in direct and substantial competition with individuals, firms and corporations engaged in the sale, in commerce, of courses of instruction by correspondence similar to that sold by respondent.

PAR. 4. Respondent's method of doing business is largely through direct mail solicitations and newspaper advertising followed by personal solicitation by respondent or his agents, representatives or employees, who deliver a sales talk and undertake to consummate a sale of said course of study and instruction.

PAR. 5. In the course and conduct of his business, as aforesaid, respondent has made and is continuing to make, many statements as to employment, qualifications, necessity of his course, type of positions open, the locality of such open position, the availability of his course to purchasers and other statements in connection with his said course of study and instruction. Said statements are contained in or appear on cards, letters, circulars and other advertising material mailed or published by respondent or his agents, representatives or employees and in sales talks of his agents, representatives and employees to prospective purchasers of said course. Through and by means of the said statements respondent represented, directly or indirectly:

1. That respondent is offering employment.
2. That completion of respondent's course of study and instruction will fully qualify the student for positions with United States Civil

Service, including livestock inspector, meat inspector, custom inspector, border patrolman, and many others.

3. That there are openings for employment with the Government for the various positions set out in respondent's advertising or desired by prospective purchasers and that such openings are in the prospective purchasers' home locality.

4. That the respondent will notify the student when and where the Civil Service examinations for positions desired by the student would be held.

5. That the time within which said course may be purchased is limited.

6. That completion of respondent's said course assures or guarantees the persons taking it of United States Civil Service positions.

PAR. 6. All of said statements and representations were and are false, misleading and deceptive. In truth and in fact:

1. Respondent is not offering employment, but is solely engaged in selling his course of instruction.

2. Completion of respondent's course will not qualify the student for the positions in United States Civil Service set out in respondent's advertising as the course does not cover specific positions. Moreover, experience and physical qualifications are necessary in order to obtain some of said positions.

3. There are no vacancies for many of the positions represented by respondent to be open to the prospective purchaser and such positions as may be open are, in most instances, not in the home locality of the student.

4. The respondent does not notify the student when and where Civil Service examinations for the position he desires are to be held.

5. There is no limit to the time in which a person may purchase the respondent's said course of study.

6. Completion of respondent's said course does not assure or guarantee United States Civil Service positions.

PAR. 7. The use by respondent of the aforesaid false, misleading and deceptive 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 on account thereof. As a direct result of the practices of respondent, as aforesaid, substantial trade is, and has been, unfairly diverted to respondent from his competitors and injury has been, and is being, done to competition in commerce.

PAR. 8. The aforesaid acts and practices of respondent, as herein alleged, 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.

Mr. William A. Somers for the Commission;
Mr. Alton J. Olson, Duluth, Minn., for respondent.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on May 4, 1961, charging Respondent with violation of the Federal Trade Commission Act by the dissemination of false, misleading and deceptive statements and representations, through direct mail solicitation and newspaper advertising followed by personal solicitation, with respect to his correspondence course of study and instruction.

Thereafter, on August 2, 1961, Respondent, his counsel, and counsel supporting the complaint entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Director and Chief of Division of the Commission's Bureau of Deceptive Practices, and thereafter, on August 8, 1961, submitted to the Hearing Examiner for consideration.

The agreement identifies Respondent William H. Fenner as an individual doing business as Central Career Service, with his office and place of business located at 602 North 56th Avenue West, Duluth, Minnesota.

Respondent 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.

Respondent waives any further procedure before the Hearing Examiner and the Commission; the making of findings of fact and conclusions of law; and all of the rights he may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, 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; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only and does not constitute an admission by the Respondent that he has violated the law as alleged in the complaint.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the Hearing Examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the Hearing Examiner accepts the Agreement Containing Consent Order To Cease And Desist; finds that the Commission has jurisdiction over the Respondent and over his acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That Respondent William H. Fenner, individually and doing business under the name of Central Career 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 by implication, that:

1. Respondent offers employment when, in fact, employment is not offered;
2. Completion of respondent's course of study will qualify persons for United States Civil Service Positions;
3. Any position in the United States Civil Service is open, unless such be a fact at the time the representation is made;
4. Any position in the United States Civil Service is open in any particular locality or section of the United States, unless such be a fact at the time the representation is made;
5. Respondent notifies the student when and where Civil Service examinations will be held;
6. Respondent's offer of sale of his course of study is limited as to time;
7. Completion of respondent's course of study assures or guarantees the person completing it a position in the United States Civil Service.

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 20th day of September 1961, become the decision of the Commission; and, accordingly:

It is ordered, That the above-named respondent 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

ABRAHAM SCHERER ET AL. TRADING AS SCHERER,
BILDNER & ALLENCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FED-
ERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS*Docket 8414. Complaint, June 1, 1961—Decision, Sept. 20, 1961*

Consent order requiring New York City furriers to cease violating the Fur Products Labeling Act by failing to disclose on labels and invoices the true animal name of fur and that fur was dyed, and to disclose on labels that a product was composed of bellies, and failing to comply in other respects with labeling and invoicing requirements.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Abraham Scherer, Charles Bildner and Daniel Allen, individually and as copartners trading as Scherer, Bildner & Allen, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling 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. Respondents Abraham Scherer, Charles Bildner and Daniel Allen are individuals and copartners trading as Scherer, Bildner & Allen with their office and principal place of business located at 150 West 28th Street, New York, New York.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been and are now engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, advertising and offering for sale, in commerce, and in the transportation and distribution, in commerce, of fur products; and have manufactured for sale, sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of fur which had been shipped and received in commerce as the terms "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said fur products were misbranded in that they were not labeled as required under the provisions of Section 4(2) of