

shall the new price charged any other purchaser who competes in the resale or distribution of such products with the purchaser paying the higher price.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

IN THE MATTER OF
ALBERT R. CHAPMAN DOING BUSINESS AS MIDLAND
INSTITUTE

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

Docket C-300. Complaint, Jan. 11, 1963—Decision, Jan. 11, 1963

Consent order requiring a Dallas, Tex., seller of a correspondence course intended to prepare students for positions with railroad companies, to cease making deceptive offers of employment in the "Help Wanted" and other columns of newspapers and by mail, along with false claims of high earnings and job guarantee and seller's affiliation with a railroad company, among other misrepresentations, as in the order below indicated.

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 Albert R. Chapman, an individual, trading and doing business as Midland Institute, 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 Albert R. Chapman is an individual trading and doing business as Midland Institute with his principal place of business located at 1000 Main Street, Dallas, Tex.

PAR. 2. Respondent is now, and has been for more than one year last past, engaged in the sale and distribution of a course of study and instruction intended to prepare students thereof for employment as telegraph operators, station agents and kindred employment by rail-

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road companies, which course is pursued by correspondence through the United States mail, as well as in residence training at the school premises.

PAR. 3. In the course and conduct of his said business, respondent has caused said course of study and instruction to be sent from his place of business in the State of Texas to, into and through States of the United States other than the State of Texas, 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 respondents in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of his aforesaid business, respondent has published and caused to be published, advertisements in the "Help Wanted" and other columns of newspapers distributed through the United States mail, and by other means, to prospective enrollees and students in the several states in which the course of study and instruction is offered for sale, of which the following is typical:

RAILROADS NEED MEN

I WANT to talk to men (18-37) who are interested in permanent employment with railroads as station agents, telegraphers, teletypists, rate men. Starting salaries \$385 to \$450 monthly. WE TRAIN YOU. Can maintain present income while training. Among the advantages railroad employment promises are:

STEADY EMPLOYMENT
INSURANCE & HOSPITAL BENEFITS
OPPORTUNITIES FOR ADVANCEMENT
FREE TRAVEL PASSES
RETIREMENT PAY
PAID HOLIDAYS
VACATIONS WITH PAY
TIME AND A HALF FOR OVER
8 HOURS WORK PER DAY
UNEMPLOYMENT PAY
40-HOUR WEEK

For personal qualifying interview, write Box L-3 Albuq. Publishing Co. today.

* * * * *

RAILROADS ARE HIRING

OPERATOR—Agents—Immediate openings for experienced men ages 19-35. If not experienced but willing to train at home and night school at own expense, you can qualify for position with major railroads with starting salary \$400 to \$450 per month plus many Railroad benefits & outstanding retirement plan. Excellent advancement opportunity. If you have high school education, no physical defects, not color blind, and are sincerely interested, write Box 3406, Springfield Newspapers, Inc. Give age, experience, race, address, phone, time available for interview.

* * * * *

RAILROADS NEED MEN

17-36. Due to Retirement—Station Agents, Teletype Operators. Clerks, urgently. WE TRAIN YOU without interfering with present income. Starting salaries \$385 month up. plus many outstanding benefits. Jobs WAITING, when qualified. For qualifying interview give address, age, race, phone number.

MIDLAND INSTITUTE
P.O. Box 5978, Dallas 22, Tex.

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RAILROADS NEED MEN 17½-35 FOR AGENTS—OPERATORS
WE TRAIN YOU

Must have clear record. NO Physical handicaps. WE FINANCE YOUR TRAINING. Graduates qualify. Excellent salary, free pass plus retirement benefits. For interview call Mr. Willard. ED 5-3431, Friday and Saturday, 9 a.m.-7 p.m.

* * * * *

PAR. 5. By means of the statements appearing in said advertisements disseminated as aforesaid, respondent has represented, and is representing, directly or by implication, that:

1. The advertisement is an offer of employment.
2. A minimum starting salary of \$382 to \$450 a month would be assured.
3. Railroad station agents, telegraph and teletype operators and clerks were in great demand by railroad companies.
4. Respondent was a railroad company or affiliated with one or more railroad companies.
5. Positions of employment as railroad station agent, telegraph or teletype operator or clerk were open to graduates of respondent's course of training.
6. Respondent's course of study and instruction will not interfere with the enrollees' present employment.
7. Graduates of respondent's course of study and instruction may obtain immediate, and permanent steady employment with high income.
8. Through the use of such terms as "We finance your training" and other similar expressions, enrollees in respondent's course of study and instruction are led to believe that their training will be paid for or assumed by someone other than the enrollee or that part-time employment would be made available by or through respondent so as to meet the cost of training.
9. That, in conjunction with said business, respondent conducts a placement service by or through which he customarily places graduates of said schools in positions of employment as railroad station agents, telegraph and teletype operators or clerks or related employment.

PAR. 6. In truth and in fact:

1. The advertisement was not an offer of employment. The advertisement was a means of soliciting applications for enrollment in a correspondence and residence course of study and instruction.

2. The minimum monthly advertised starting salary of \$382 to \$450 greatly exceeds the actual earnings that graduates of respondent's school would receive should they be employed by railroad station agents, telegraph or teletype operators before acquiring seniority in any other positions of employment.

3. There was not, and is not, a great demand for railroad station agents, telegraph and teletype operators and clerks with railroad companies.

4. Respondent is not a railroad company, never was a railroad company nor is respondent's school affiliated with a railroad company.

5. Employment as railroad station agents, telegraph and teletype operators or clerks is not open to persons accepted by respondent as trainees and complete said course of study and instruction.

6. Respondent's course of study and instruction does interfere with the existing employment of the enrollee, as the enrollee is required to spend from several weeks to several months in residence training at respondent's school in Dallas, Texas so as to complete respondent's course of instruction and training.

7. Graduates of respondent's course of study and instruction cannot immediately obtain permanent employment, steady employment on high income.

8. No arrangements exist whereby the costs of training are paid for or assumed by anyone other than the enrollee. Respondent does not provide nor does he have facilities with which to provide part-time employment for enrollees to meet the costs of training.

9. Respondent, in conjunction with his said business, does not conduct a placement service by or through which he customarily places graduates of said school in positions of employment as railroad station agents, telegraph and teletype operators or clerks.

Therefore, the statements and representations as set forth in Paragraph 5 hereof are false, misleading and deceptive.

PAR. 7. In the course and conduct of his business, as aforesaid, respondent employs commission sales agents or representatives who call upon prospective purchasers and solicit their purchase or enrollment in said course of study and instruction.

In the course of such solicitation, such sales agents or representatives, either directly or by implication, have made many statements and representations to prospective purchasers or enrollees in said course of

study and instruction. Typical, but not all inclusive of which, are the following:

1. Railroad station agents, telegraph and teletype operators and clerks were in great and constant demand with the railroad companies.
2. Only a limited number of persons would be accepted from a specified geographical area to take this training.
3. Only persons with special qualifications for this type of work would be accepted for training.
4. Respondent guarantees employment as a railroad station, telegraph or teletype operator or clerk to graduates of respondent's course of study and instruction.
5. Everyone who has completed respondent's course has been placed in a position of employment with the railroads.
6. The management of the school is in some manner affiliated with a railroad company.
7. Positions of employment as station agent, telegraph or teletype operator or clerk were open to graduates of respondent's school upon completion of respondent's course of study and instruction.
8. Upon completion of the course, graduates would be immediately placed in steady employment with a railroad.
9. Respondent's course of study and instruction would enable graduates to be placed immediately in positions of employment by which they could obtain regular and steady monthly earnings ranging from \$382 to \$450.

PAR. 8. In truth and in fact:

1. While in some instances employment as railroad station agents, telegraph and teletype operators and clerks occurs as a result of vacancies created by death, retirement and other reasons, such opportunities are decreasing due to technological and other changes in the railroad industry and there was not and is not, a great and constant demand for persons to fill such positions. Furthermore, such demand, as does occur is sporadic and seasonal, and, varies from place to place.
2. Respondent does not limit the number of enrollees in any specific geographical area.
3. Respondent's training is not limited to any selected group of persons or those with certain qualifications other than their ability to meet respondent's tuition charges.
4. Respondent does not guarantee employment as a railroad station agent, telegraph and teletype operators or clerk to graduates of respondent's course of study and instruction.
5. Respondent does not place everyone who has completed the course of study and instruction in a position of employment with the railroads. In fact, such employment as may be obtained by graduates is principally through the individual efforts of each graduate.

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6. The management of the school is not affiliated with any railroad company.

7. Positions of employment as station agents, telegraph and teletype operators or clerk are not open to graduates of respondent's school as trainees without further training and experience.

8. Graduates of respondent's course of study and instruction cannot be immediately placed in steady employment with a railroad. Such employment as is available to men lacking railroad seniority and experience is generally on a part-time or "extra" basis at intervals which are not steady as to duration or at locations which are constantly changing, or both.

9. Respondent's course of study and instruction does not enable graduates to be immediately placed in positions of employment by which they can regularly obtain monthly earnings ranging from \$382 to \$450. Railroad employment in the aforementioned positions is subject to seasonal and economic conditions as well as seniority which necessitates irregular, sporadic and intermittent periods of apprenticeship until sufficient seniority can be attained to reach a degree of steady, permanent and localized employment conditions.

Therefore, the statements and representations as set forth in Paragraph 7 were and are false, misleading and deceptive.

PAR. 9. In the conduct of his business, at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of courses of study and instruction of the same general kind and nature as that sold by respondent.

PAR. 10. The use by respondent of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and to induce a substantial number thereof to subscribe to, enroll and purchase respondent's said course of study and instruction by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with vio-

lation of the Federal Trade Commission Act, and the respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as set forth in such complaint and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent, Albert R. Chapman, is an individual, trading and doing business as Midland Institute, with his office and principal place of business located at 1000 Main Street in the city of Dallas, State of Texas.

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

ORDER

It is ordered, That respondent Albert R. Chapman, an individual, trading and doing business as Midland Institute, or under any other name or names, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of courses of study, training and instruction in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

1. Employment is being offered when, in fact, the purpose is to obtain purchasers of such courses of study, training and instruction;

2. Persons completing respondent's course of study and instruction are qualified for positions of employment with starting salaries \$382 to \$450 per month; or otherwise misrepresenting the earnings which such persons may expect to achieve;

3. Positions of employment as railroad station agent, telegraph or teletype operator or clerk are open to persons completing said course of study and instruction without further training or experience, or otherwise misrepresenting the opportunities for employment by persons completing said course;

4. Respondent is a railroad company or is affiliated with a railroad company;

5. Railroad station agents, telegraph or teletype operators and clerks are in great demand or otherwise misrepresenting the demand for persons to fill such positions of employment;

6. Respondent's course of study and instruction will not interfere with the present employment of persons enrolling for such course;

7. Persons completing respondent's course of study and instruction are able to obtain immediate, permanent or steady employment, or high income;

8. The respondent will provide ways and means by or through which the purchase price of the respondent's course of instruction may be paid for or assumed by persons other than the enrollee; or that part-time employment would be made available by or through the respondent so as to provide the student with the finances to make the payment of such purchase price;

9. Respondent operates a placement service by or through which he customarily finds employment with railroads for graduates of said course of study, instruction and training, or otherwise misrepresents the ease or the means and methods by which such graduates may obtain employment with railroad or other transportation companies;

10. Respondent guarantees employment to persons completing said course of study and instruction.

It is further 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 this order.

IN THE MATTER OF

SOUTHERN INDIANA WHOLESALERS, INC.,* ET AL.