

which they have complied with the order to cease and desist contained therein.

IN THE MATTER OF

OHIO CHRISTIAN COLLEGE (OF CALVARY GRACE
CHRISTIAN CHURCHES OF FAITH, INC.), ET AL.

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

Docket 8820. Complaint, July 29, 1970—Decision, May 19, 1972

Order requiring a Columbus, Ohio, correspondence school to cease using the word "college" or any similar misrepresentation, conferring any academic degrees, misrepresenting respondent as having resident classes and accredited curricula, implying that the State of Ohio or any other governmental body recognized respondents' programs, misrepresenting respondents' offer a unique method of instruction, using the name "National Educational Accrediting Association," and misrepresenting that any of respondents' businesses is a bona fide organization of guidance counselors.

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 OHIO CHRISTIAN COLLEGE (Of Calvary Grace Christian Churches of Faith, Inc.), a corporation, ALPHA PSI OMEGA SOCIETY, a corporation, Alvin O. Langdon, Leeta O. Langdon, Gene Thompson and Jerry Weiner, individually and as officers of said corporations, and Alvin O. Langdon, an individual trading as National Educational

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Accrediting Association, hereinafter referred to as respondents, have 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:

PAR. 1. Respondents OHIO CHRISTIAN COLLEGE (of Calvary Grace Christian Churches of Faith, Inc.) and ALPHA PSI OMEGA SOCIETY are corporations organized, existing and doing business under and by virtue of the laws of the State of Ohio, with their principal office and place of business located at 1161 South Yearling Road, Columbus, Ohio.

Individual respondent Alvin O. Langdon, Leeta O. Langdon, Gene Thompson and Jerry Weiner are officers of said corporations. They formulate, direct and control the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. The address of Alvin O. Langdon and Gene Thompson is the same as the principal place of business of the corporate respondents and the address of Leeta O. Langdon is 1156 Striebel Road, Columbus, Ohio. The address of Jerry Weiner is 88E. Broad Street, Columbus, Ohio.

Respondent Alvin O. Langdon, trading as National Educational Accrediting Association, has his principal place of business at 1161 South Yearling Road, Columbus, Ohio.

The respondents herein cooperate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution, or assisting and aiding in the sale, of textbooks and correspondence courses in a variety of subjects, diplomas, degrees, transcripts, certificates of membership and certificates of accreditation, to the purchasing public.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, said textbooks, correspondence courses, diplomas, transcripts, certificates of membership and certificates of accreditation, when sold, to be transported from respondents' places of business in the State of Ohio to purchasers thereof located in various other States of the United States and respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products and services, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business as aforesaid, and for the purpose of inducing the sale of their products and serv-

ices, respondents have made many statements and representations regarding their products and services in advertisements, circulars, brochures, pamphlets and other advertising and promotional material. By and through the use of such statements and representations and by and through the use of the words "college," "association" and "society" as a part of their corporate or trade names, respondents have represented, directly or by implication, that:

1. Respondent Ohio Christian College (Of Calvary Grace Christian Churches of Faith, Inc.) is a non-profit residence school which offers residence instruction by a staff of faculty members who are trained and competent to teach the courses of a properly accredited and recognized college and it offers a curriculum which is accredited by a recognized accrediting agency.

2. Respondent Ohio Christian College (Of Calvary Grace Christian Churches of Faith, Inc.) and the diplomas and degrees offered with its courses are recognized by various institutions, agencies, organizations and persons, and that the person to whom respondent awards a diploma or degree will be recognized as having completed and shown proficiency in a curriculum which has been approved by a recognized accrediting agency as necessary to earn the diploma or degree awarded and that the person to whom the diploma or degree is awarded is entitled to and will receive the honors, privileges and rights of persons who have been awarded diplomas or degrees with the same names from schools accredited by recognized accrediting agencies.

3. The correspondence courses offered by respondent Ohio Christian College (Of Calvary Grace Christian Churches of Faith, Inc.) contain all the subject matter, material, study and hours of residence courses offered by a school properly accredited by a recognized accrediting agency to obtain a college or theological degree.

4. The State of Ohio has approved or sanctioned the respondents' courses of instruction and issuance of diplomas.

5. Respondent Ohio Christian College (Of Calvary Grace Christian Churches of Faith, Inc.) is using and offers a unique method of instruction and study that is widely approved and accepted by educational authorities.

6. National Educational Accrediting Association is a recognized bona fide accrediting agency for schools and is a part of or has some connection with the National Education Association, a well-known and long-established organization of teachers and other persons interested in the field of education.

7. Respondent Alpha Psi Omega Society is a bona fide organization of guidance counselors and other persons interested in the field of counseling joined together for common interest and said society has founded and sponsors and maintains a home for homeless boys in Columbus, Ohio.

PAR. 5. In truth and in fact:

1. Respondent Ohio Christian College (Of Calvary Grace Christian Churches of Faith, Inc.) is a profit making organization, and it is not a residence school that offers residence instruction. Said respondent has no faculty members who are trained and competent to teach accredited and recognized college undergraduate or graduate courses of any kind; nor does it offer a curriculum in said fields which is accredited by a recognized accrediting agency, and it is not so recognized.

2. The diplomas and degrees awarded by Ohio Christian College (Of Calvary Grace Christian Churches of Faith, Inc.) are not approved or accepted by any recognized educational institution, agency, person or organization, nor is the person who receives such a diploma or degree recognized as having completed and shown proficiency in a curriculum approved by a recognized accrediting agency necessary to earn such a diploma or degree. The persons to whom the respondents' diplomas or degrees are awarded are not entitled to and will not receive all the rights, privileges and honors as persons awarded diplomas or degrees of the same name by schools accredited by a recognized accrediting agency.

3. The courses offered by respondent Ohio Christian College (Of Calvary Grace Christian Churches of Faith, Inc.) do not contain the material, study and hours of residence courses given by a school accredited by a recognized accrediting agency, to obtain diplomas or degrees of the same names as those offered by respondent.

4. Neither the State of Ohio nor any other governmental or political subdivision has approved respondents' courses of study and the issuance of their diplomas or degrees.

5. Respondent Ohio Christian College (Of Calvary Grace Christian Churches of Faith, Inc.) is not using a unique method of instruction and study that is widely approved and accepted by educational authorities.

6. National Educational Accrediting Association is not a recognized bona fide accrediting agency for schools and it has no connection with the National Education Association.

7. Respondent Alpha Psi Omega Society is not a bona fide organization of guidance counselors and other persons interested in the field of counseling joined together for common interest and said respondent has not founded, sponsored or maintained a home for homeless boys.

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

PAR. 6. By and through the use of the aforesaid acts and practices, respondents place in the hands of individuals the means and instrumentalities by and through which they may mislead and deceive others as to the diplomas, degrees and other academic qualifications said individuals possess. Further, by and through the use of the aforesaid acts and practices, respondents place in the hands of operators of schools accredited by National Educational Accrediting Association, the means and instrumentalities by and through which they may mislead and deceive prospective students as to the status of such schools.

PAR. 7. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, correspondence schools, residence colleges and universities of various kinds and nature engaged in offering education, training and instruction.

PAR. 8. The use by respondents 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 purchase said courses of instruction, diplomas, certificates of accreditation.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' 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.

Mr. Robert J. Hughes and *Ms. Barbara Metsky* supporting the complaint.

Mr. Jerry Weiner and *Mr. Jerry Lippe*, Columbus, Ohio for respondents.

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INITIAL DECISION BY WALTER K. BENNETT, HEARING EXAMINER

FEBRUARY 26, 1971

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PRELIMINARY STATEMENT

This is a proceeding under Section 5 of the Federal Trade Commission Act.¹ In its complaint mailed August 4, 1970, the Federal Trade Commission charges that the respondents (comprising two corporations, a sole proprietorship and four individuals) have made false statements and representations regarding their products and services in advertisements, circulars, brochures, pamphlets and other advertising and promotional material and that by such statements and through the use of words "college," "association" and "society" they have falsely represented, directly or by implication, that:

1. Respondent Ohio Christian College (of Calvary Grace Christian Churches of Faith, Inc.) is a non-profit residence school which offers residence instruction by a staff of faculty members who are trained and competent to teach the courses of a properly accredited and recognized college and it offers a curriculum which is accredited by a recognized accrediting agency.

¹ "Unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are declared unlawful." (15 U.S.C. 45)

2. Respondent Ohio Christian College (of Calvary Grace Christian Churches of Faith, Inc.) and the diplomas and degrees offered with its courses are recognized by various institutions, agencies, organizations and persons, and that the person to whom respondent awards a diploma or degree will be recognized as having completed and shown proficiency in a curriculum which has been approved by a recognized accrediting agency as necessary to earn the diploma or degree awarded and that the person to whom the diploma or degree is awarded is entitled to and will receive the honors, privileges and rights of persons who have been awarded diplomas or degrees with the same names from schools accredited by recognized accrediting agencies.

3. The correspondence courses offered by respondent Ohio Christian College (of Calvary Grace Christian Churches of Faith, Inc.) contain all the subject matter, material, study and hours of residence courses offered by a school properly accredited by a recognized accrediting agency to obtain a college or theological degree.

4. The State of Ohio has approved or sanctioned the respondents' courses of instruction and issuance of diplomas.

5. Respondent Ohio Christian College (of Calvary Grace Christian Churches of Faith, Inc.) is using and offers a unique method of instruction and study that is widely approved and accepted by educational authorities.

6. National Educational Accrediting Association is a recognized bona fide accrediting agency for schools and is a part of or has some connection with the National Education Association, a well-known and long-established organization of teachers and other persons interested in the field of education.

7. Respondent Alpha Psi Omega Society is a bona fide organization of guidance counselors and other persons interested in the field of counseling joined together for common interest and said society has founded and sponsors and maintains a home for homeless boys in Columbus, Ohio.

By answer mailed August 28, 1970, respondents denied that they had knowledge or information sufficient to form a belief as to the truth of the allegations contained in the complaint and therefore denied each and every allegation. Following a prehearing conference on September 17, 1970, before the Honorable Walter R. Johnson, the hearing examiner then assigned to the matter, respondents filed an amended answer dated September 25, 1970, which admitted the existence of the corporations, specified who the officers were and admitted certain of the representations but denied their falsity and denied any

violation of law. Among the admissions were that respondent Ohio Christian College (of Calvary Grace Christian Churches of Faith, Inc.) (hereinafter referred to as OCC) admits it is a non-profit institution under the direction of the church and has facilities for resident students. Respondents further admit that they have a staff of faculty members who are trained and competent to teach the courses of recognized colleges; that respondent OCC is using and offers a unique method of instruction and study widely approved and accepted by educational authorities; and that the society Alpha Psi Omega (hereinafter referred to as APO) maintains a home for homeless boys in Columbus, Ohio.

By prehearing order dated September 18, 1970, the Honorable Walter R. Johnson, required the parties to submit trial briefs by October 14, 1970, listing the witnesses and documentary exhibits. In this order he provided that the exhibits should be deemed to be genuine unless objections were noted within 10 days of the receipt of the trial briefs and he further ordered that no exhibits or testimony would be offered that were not listed or described in the trial briefs ordered to be filed by October 14, 1970.

The undersigned was substituted by the Director of Hearing Examiners for the Honorable Walter R. Johnson at the latter's request and on October 16, 1970, complaint counsel filed their trial brief listing over 20 witnesses and almost 600 exhibits, all of which were marked for identification. The respondents filed the "Theory of the Case" on November 12, 1970, but did not list their witnesses and exhibits until after commencement of the proceedings.

These irregularities were, however, waived by counsel and in the few cases where there were other deviations from such lists there was no objection by either party.

Perhaps the most serious charge made in the complaint was that against OCC which complaint counsels' brief describes as a "diploma mill" (see page 3, Par. 1). The respondents in their answer had denied the allegations of the complaint which alleged they were in commerce and in their trial brief stated as their theory of their defense that the Federal Trade Commission has no authority to regulate respondent OCC because it was incorporated and sanctioned by the Calvary Grace Christian Churches of Faith, Inc. for the purpose of giving educational advantages to members of the church. Respondents also claimed that under the first amendment neither the United States nor any of the states have any right to regulate the activities of this church sponsored organization.

At trial, on being questioned concerning the extent of that claim of exemption, respondents' counsel also claimed that the Federal Trade Commission did not have statutory jurisdiction under the language of the enabling statute.²

Hearings commenced on November 16, 1970, and continued with only such interruptions as are customary in judicial proceedings until November 24, 1970.³ By stipulation two of complaint counsels' witnesses who were unable to appear earlier testified during the course of the presentation of respondents' case. It was agreed that notwithstanding this deviation from the usual order of proof respondents did not waive any of their rights to move to dismiss at the close of complaint counsels' case. The hearing examiner reserved decision on that motion and now denies it.

BASIS OF DECISION

This decision is based on the entire record, including the proposed findings and conclusions of the parties. All findings of fact not expressly, or in substance, adopted are denied as erroneous, immaterial or irrelevant. In accordance with Rule 3.51(b), references are made to the specific pages of the principal supporting items of evidence in the record. The citations to the principal supporting portions of the record are not intended to exclude other portions of the record, all of which have been carefully considered in light of the demeanor of the witnesses and their consistency or inconsistency with contemporaneously written documents. The abbreviations used are found in the footnote.⁴ Although in the exercise of his discretion the hearing examiner permitted complaint counsel to put in their entire case without requiring first that matters relating to the contested jurisdiction be offered, in ensuing findings the hearing examiner will separate

² In the case *Community Blood Bank of Kansas City Area Inc. v. Federal Trade Commission*, 405 F.2d 1011 (8th Cir. 1969) the Court held that the Federal Trade Commission did not have the jurisdiction over a community blood bank and its hospital members and the hospital's associations all of which were non-profit organizations. This was not because of the form of incorporation but because in their actual operation the organizations were devoted to community service and were not themselves obtaining a profit nor were their officers. The rationale of the case is that Section 4 exempts such associations defining the term corporation to include a corporation or association incorporated or unincorporated "which is organized to carry on business for its own profit or that of its members." (15 U.S.C. 44)

³ The time of the hearing examiner to render this initial decision was extended because of the failure to receive the transcript on time.

⁴ C.—Complaint; A.—Answer; Tr.—Transcript; CX—Commission Exhibit; RX—Respondent's Exhibit; CPF refers to Complaint Counsel's Proposed Findings. Since respondents filed an argument rather than proposed findings references are unnecessary. All findings will be deemed, when cited, to include citations to the references therein contained.

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those findings relating primarily to jurisdiction and those which relate to the practices claimed to be misleading.

FINDINGS OF FACT

A. Description of Respondents and Their Mutual Relationships

1. Respondent Ohio Christian College (of Calvary Grace Christian Churches of Faith, Inc.) (hereinafter sometimes referred to as OCC) is a corporation organized and existing under the laws of the State of Ohio. Its principal office was formerly located at 1161 S. Yearling Road, Columbus, Ohio. It is now located at 2456 West Broad Street, Columbus, Ohio. (A. page 1; Tr. 157; CX 1a-f).

2. Respondent Alpha Psi Omega Society (hereinafter sometimes called APO) is a corporation organized and existing under the laws of the State of Ohio. Its principal office is located at 1156 Striebel Road, Columbus, Ohio (A. page 1; CX 25a-d).

3. Respondent Alvin O. Langdon held the office of president of OCC from its incorporation until January 1970, when he assumed the title of "dean." His place of residence is 1156 Striebel Road, Columbus, Ohio. Respondent Alvin O. Langdon was one of the incorporators of OCC and has been a member of its board of trustees since incorporation (Tr. 31, 32, 1000; CX 1a-f, CX 3a-3).

4. Respondents Leeta O. Langdon and Gene Thompson are officers of OCC and incorporators and members of the board of trustees. The residence address of respondent Leeta O. Langdon is 1156 Striebel Road, Columbus, Ohio, and the residence address of respondent Gene Thompson is 1161 S. Yearling Road, Columbus, Ohio (CX 1a-f, CX 3a-e; Tr. 831, 832, 839).

5. Respondent Jerry Weiner is a practicing attorney and member of the bar of the State of Ohio. His address is 88 E. Broad Street, Columbus, Ohio. Sometime in the month of January 1970, he assumed the presidency of OCC (A. page 1; Tr. 1000).

6. Respondents Alvin O. Langdon, Leeta Langdon and Gene Thompson are officers, incorporators and members of the board of trustees of respondent APO (A. page 1; CX 25a-d).

7. Respondent Alvin O. Langdon is sole proprietor of National Educational Accrediting Association (hereinafter sometimes referred to as NEAA). Its principal address and place of business is 1156 Striebel Road, Columbus, Ohio. He holds the trademark of NEAA (Tr. 46-48).

8. Respondents Alvin O. Langdon, Leeta Langdon, Gene Thompson and Jerry Weiner cooperate and act together in carrying out the acts and practices of respondent OCC (CPF 3, 4, 5 and 8).

9. Respondents Alvin O. Langdon, Leeta Langdon and Gene Thompson cooperate and act together in carrying out the acts and practices of respondent APO (CPF 6, 9).

B. Findings Relating Primarily to Jurisdiction

10. According to the sworn testimony of respondent Alvin O. Langdon, commencing sometime in the 1960's, respondent Alvin O. Langdon established contact with Dr. Herman Keck of Calvary Grace Christian Churches of Faith, Inc. of Florida (hereinafter called "mother church") (Tr. 899). Langdon and his wife were authorized by the "mother church" for the State of West Virginia to establish schools, missionary societies and college activities and thereafter commenced a college which was known as the Central Christian College (Tr. 901-902). At about the same time respondent Alvin O. Langdon developed the National Educational Accrediting Association, of which he was the sole proprietor (Tr. 47). He has accredited two of the Rev. Keck's colleges which conferred degrees on both the Langdons and on respondent Gene Thompson without any resident study.

11. The Attorney General's office in West Virginia brought a proceeding against respondent Alvin O. Langdon individually, and as Central Christian College, secured a preliminary injunction and seized his property and files. The order (CX 593a and b) recites that the prayer for injunction to be rendered against Alvin O. Langdon and Central Christian College would restrain and enjoin him from the alleged fraudulent activities of awarding degrees and the offering of courses of study in violation of the laws of West Virginia. Respondent Langdon testified that this was because of a dispute about the requirements for a foreign church in West Virginia (Tr. 903-906). He testified moreover that the suit was not his reason for leaving West Virginia; he merely desired to get better recording facilities (Tr. 910).

12. Somewhat earlier the Langdons had found that they could not continue to operate a Children's Center which they had in Huntington, West Virginia, because of the requirements of the inspection authorities that they expend a large sum of money in improvements to satisfy the safety standards required by the municipal authorities (Tr. 961-963).

13. In 1965 respondents Langdon commenced to operate Ohio Christian College without incorporation but as an arm of the "mother church" (Tr. 911-912). This was later incorporated as Ohio Christian College (of Calvary Grace Christian Churches of Faith, Inc.) in

Ohio (CX 1). Calvary Grace Christian Churches of Faith, Inc. (hereinafter Calvary Church) was also incorporated there (RX 286).

14. At about the same time the APO, which had been operated in connection with Central Christian College as World Youth Counsel, was incorporated. Respondent Alvin O. Langdon as sole proprietor of National Educational Accrediting Association accredited OCC and accreditation was secured from Association of Fundamental Institutions of Religious Education which Langdon could not describe except to say that it had the same Post Office Box as two of the Rev. Keck's colleges (Tr. 222, 223).

15. According to Respondent Alvin O. Langdon all the courses now taught at OCC have to do with religion (Tr. 930). And, Calvary Church offers assistance such as household furnishings, clothing for the children or practically anything that is needed (Tr. 938). It advertises and passes out cards for persons needing assistance (Tr. 938; RX 287).

16. The articles of incorporation of both OCC and APO state that they are not organized for profit and that on their dissolution none of their property would go to anyone except a tax exempt organization (CX 1, 25; Tr. 33, 45, 915).

17. Alvin O. Langdon, Leeta O. Langdon, and Gene Thompson were the original incorporators of OCC and APO and as all of the directors, they authorized respondent Alvin O. Langdon to publish advertising and to draw checks on behalf of both of these organizations. This authorization has not been changed. (Tr. 39-42, 972; CX 4). Alvin O. Langdon, Leeta O. Langdon and Gene Thompson live on the premises of OCC and title to the premises⁵ is held by Calvary Church (Tr. 209-210, 218-219, 277). The Langdon respondents receive their food as well as their lodging free of charge (Tr. 250, 975) and Alvin O. Langdon allots himself a salary of \$100 a week which he does not always take (Tr. 250, 975); has the use of a Cadillac automobile which he stated was used solely for the purpose of work for the church and the college (Tr. 251). Gene Thompson receives a salary and lodging for himself and his wife paid by Calvary Church (Tr. 854). OCC has no bank account and owns nothing (Tr. 916, 919, 1007)—all its funds are deposited in the account of Calvary Church. APO is usually in the red and it has to borrow from Calvary Church to carry on its activities (Tr. 953).

18. Jerry Weiner, counsel for the respondents, who became president of OCC sometime in January 1970, after respondent Alvin O.

⁵ There is one exception, the 1156 Striebel Road property is owned by respondent Langdon's son subject to a mortgage. Rent in the form of payments on the mortgage is paid by Calvary Church (Tr. 206-207).

Langdon relinquished that post and became dean (Tr. 922, 1000), testified that he had examined all of the check vouchers of the accounts of APO and Calvary Church which were handled by Alvin O. Langdon and that no distribution except by way of modest salaries for services rendered was made to any of the other respondent individuals (Tr. 1010) and that the records demonstrated a great many donations being made by the church to needy individuals (Tr. 1004) partial or complete care was given to some 15 boys by APO although only two were there continually and that monies are paid to Calvary Grace Christian Churches of Faith, Inc. of Florida the "mother church" (Tr. 1008-9). One contribution on April 30, 1970, made in the amount of some \$300 was identified (RX 308; Tr. 1009).

19. Respondent Langdon testified that Calvary Church had been incorporated at the direction or under the auspices of the mother church, that OCC had likewise been incorporated on behalf of the church (Tr. 901 *et seq.*). He further testified that the college was formed for the purpose of securing converts to the church (Tr. 59).

20. Respondent Alvin O. Langdon testified that persons making inquiry to the college were sent a copy of a proposed catalogue and also a copy of a letter telling them they must be members of the church before they could secure an educational opportunity from the college. (Tr. 78, 942-943; RX 304). He testified that this had been the rule since the beginning (Tr. 176). On the other hand, on further examination by counsel supporting the complaint, he testified that in the case of at least four or five individuals, who were admittedly not members of the church, they had been admitted to the college and had been given extension courses and a certificate. Mr. Paul Abraham testified that when he enrolled in 1968 (Tr. 789) nothing was said to him and he did not receive any written communication that indicated he was required to be a member of Calvary Church (Tr. 788).

21. Subsequent to January 1, 1970, the catalogue of the college was changed so that it contained a specific requirement that persons who desired to become members of the college would have to first be members of the church. It was further explained, however, that no donations would be required and that there would be no duties involved in becoming a member of the church and that church membership was to make the applicant eligible to pursue the educational program offered by OCC (RX 288; Tr. 924). No application was turned down because the applicant was not a church member (Tr. 191-192).

22. On the basis of the testimony of respondents Langdon, Mrs. Langdon and Thompson, it appears that all of the decisions with respect to the operation of both APO and OCC were made by Mr.

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Langdon, that the others assisted him in correcting papers only at his direction and while they attended meetings they appeared to have no recollection as to what occurred (Tr. 834, 851-852, 972). Thus, for all practical purposes up until early in 1970, OCC and APO were in reality Alvin O. Langdon.

23. There was no proof offered contradicting the testimony of respondents Weiner and Langdon about the disposition of funds of the corporate respondents.

24. It was stipulated that both of the Calvary Grace Christian Churches of Faith, Inc., had received exemption as charitable organizations from the Internal Revenue Service and that while OCC and APO were still being audited they had not yet been held to be subject to or exempt from income taxes (Tr. 279-283).

Interstate Commerce

25. Advertisements were published by respondents in magazines and newspapers that circulated among the several states (CX 107). Applications for enrollment and membership (CX 146, 160) and accreditation (CX 506) and payments and completed lessons were forwarded by mail from states other than Ohio to Ohio and pamphlets, catalogues, forms (CX 26; RX 288), text books, lessons, transcripts (CX 73, 83), degrees (CX 513), certificates of membership (CX 505a-c) and certificates of accreditation (CX 519) and corrections to lessons were forwarded by respondents by mail from Ohio to students (CX 277a-m) and colleges (CX 506a-c) in states other than Ohio. There was thus a continuous stream of communications in interstate commerce embodying the representations hereinafter described and respondents were accordingly in commerce as that term is defined in the Federal Trade Commission Act (15 USC 45 *et seq.*) (CPF 22, 23).

C. Findings Relating to Offenses Charged

In ensuing findings we shall deal with the types of representation made, the implications therefrom and the connection of the individual respondents therewith. Then we shall consider the truth or falsity of each of the various types of representation.

Representations Regarding OCC and Persons Responsible Therefor

26. The initial effort to reach the prospective student is that contained in an advertisement inserted spasmodically in the following well-known magazines of national circulation (Tr. 57-58): Popular

Mechanics, Science Digest, Outdoor Life, Popular Science and Field and Stream. The advertisement reads:

Earn college degree at home, All subjects. Ohio Christian College, 1156 Striebel Rd., Columbus, Ohio 43227 (CX 107)

This implies on its face that OCC is capable of and competent to teach students all subjects customarily taught in a recognized college and to award a degree which will be generally recognized as a college degree.

The advertisement is still being run (Tr. 51-53) and it has been expressly approved by respondent Alvin O. Langdon who was specifically authorized to issue advertising on behalf of OCC by respondents Leeta O. Langdon and Gene Thompson (CX 2, 3; Tr. 39-42). Respondent Weiner before he agreed to represent respondents and before and after he became president of OCC made an investigation of the affairs of OCC (Tr. 1001 *et seq.* 1018) and a number of changes (Tr. 1012) so we must infer that the advertisement received his approval. It continues to be run unchanged (Tr. 51-53).

27. In a mailing brochure (CX 512) more detail is given. Degrees in all subjects are offered and business, industry, science, psychology, law, medicine, sociology, theology and education are expressly mentioned. It also states to ask for catalogue.

28. The next presentation to the prospective student was the catalogue of the college. The catalogue was originally entitled Curricular of Extension Studies and had several editions. The last one is entitled "Admission Bulletin" (CX 5, 507, 508; RX 288). Issuance of the catalogues by respondent Alvin O. Langdon was clearly authorized by Mrs. Langdon and respondent Thompson (CX 2, 3; Tr. 39-42) and the latest edition, The Admission Bulletin, was one revised by respondent Weiner (Tr. 1011).

The second page is substantially identical in each. Contained at the top in old english letters headline size is "Ohio Christian College." This is followed by the words "Adult Degree Program" in all capital slightly smaller type. Then in much smaller italics appears "of Calvary Grace Christian Churches of Faith, Inc." At the center of the page are the words in medium size type "An Accredited Educational Institution." Then in very large headline type "State Chartered" appears followed by two seals; one contains "Association of Fundamental Institutions of Religious Education accredited member" and the second "National Educational Accrediting Assn. accredited member NEAA."

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This page alone implies to the prospective student that this is a college of the traditional type offering degrees of the character offered by accredited colleges, and that it bears the imprimatur of the State of Ohio as well as two recognized accredited associations one of which might easily be mistaken for the well-known National Education Association.

29. Subsequent catalogue pages enhance rather than detract from these implications. Degrees of Bachelor, Master and Doctor are offered in Theology and in Music as well as in a great many other fields. These representations imply that the degrees offered are the same as those of recognized institutions of learning and that there is a faculty capable of teaching them and that the degrees and courses offered will secure recognition as such.

Prospective students are told in the catalogue that they may pursue resident study but if not able to afford it may get home study (or extension) courses at a fraction of the cost of resident study. This is touted as a new educational plan. The prospective student is promised credit for experience which will reduce his home study requirements. An honorary degree even is offered "to eligible candidates in recognition of their accomplishments and achievements" (RX 288). In earlier catalogues it was made clear that a fee of \$50 would be required with each application toward the tuition but that in case of honorary degrees the applicant's contribution of a full \$100 would be needed (CX 52 p. 9).

As further bait for the home study course the prospective student is told:

Degree Certificates and Transcripts issued for extension study are the same as those issued for resident school. They do not bear the words "Home Study" or "Extension" study" (RX 288 p. 18).

30. The prospective student thus is given to understand that the degrees and transcripts will be as good as those obtained in resident colleges. In addition, the prospective student is expressly assured:

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The college is fully empowered by the state of Ohio to grant college degrees through its legal charter. Degree requirements are based upon the completion of a required number of subjects rather than the accumulation of hours or credits. The college can assume no responsibility for teacher certification as certification requirements vary from state to state. (RX 288)

The disclaimer in the last sentence (based no doubt on experiences like that of Mr. Abraham who was relieved by a school board for accepting a doctors degree from OCC) (Tr. 791 *et seq.*) seems to imply that

in other non-teaching situations the degree and transcript will be acceptable to other colleges and to state and other institutions.

31. On the basis of the foregoing examples and on a review of all the evidence we conclude that:

(a) Respondents have represented that OCC is a non-profit residence school which offers resident instruction by a staff of faculty members who are trained and competent to teach the courses of a properly accredited and recognized college and its offers a curriculum which is accredited by a recognized accrediting agency (CPF 1-5).

(b) Respondents have represented that OCC and the diplomas and degrees offered with its courses are recognized by various institutions, agencies, organizations and persons, and that the person to whom respondents award a diploma or degree will be recognized as having completed and shown proficiency in a curriculum which has been approved by a recognized accrediting agency as necessary to earn the diploma or degree awarded, is entitled to and will receive the honors, privileges and rights of persons who have been awarded diplomas or degrees with the same name from schools accredited by recognized accrediting agencies (CPF 7, 8).

(c) Respondents have represented that the correspondence courses offered by OCC contain all the subject matter, material, study and hours of residence courses offered by a school properly accredited by a recognized accrediting agency to obtain a college or theological degree (CPF 10).

(d) Respondents have represented that the State of Ohio has approved or sanctioned the respondents' courses of instruction and issuance of diplomas (CPF 12).

(e) Respondents have represented that OCC is using a unique method of instruction and study that is widely approved and accepted by educational authorities (CPF 14).

Representations Regarding APO

32. The early catalogue supplied to describe OCC also contained matter describing APO (CX 52 p. 17).

33. It represented that APO was founded and sponsored by OCC for those whose duties involve the counseling of others and that its purpose was to provide the latest information on modern counseling methods, research and statistics "and to bind together in brotherhood the nation's finest counselors."

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34. It listed fourteen types of counseling including educational, legal, psychological and medical, among others. And it promised that on acceptance members were automatically elected to the National Advisory Board of Directors and "entitled to share in all honors and privileges of the National Society."

35. Then followed several pages, including photographs of boys and two "cottages" at the boys' home, claiming that "one of the many projects" of the APO "is the founding, supervision and maintenance of a Home for Homeless Boys". (CX 52 pp. 18-23).

36. The same type of representation without material on the boys' home appears in other soliciting material, that describes APO as a "Professional, Honor and Recognition Society of Psychological Counselors." (CX 92)

37. Respondents thus have represented that Alpha Psi Omega Society is a bona fide organization of guidance counselors and other persons interested in the field of counseling joined together for common interest and said Society has founded and sponsors and maintains a home for homeless boys in Columbus, Ohio (CPF 19-21).

Representations Regarding NEAA

38. Respondent Alvin O. Langdon while still in Huntington, West Virginia issued invitations as executive director of NEAA to institutions to become accredited. In the invitation he states that NEAA "is dedicated to the improvement of educational policies and standards. Every assistance is given to the affiliate member in all educational matters." Later the invitation states that the prospective member may use the seal which "serves to increase the prestige of the school and is our certification of approval and recommendation" (CX 99). The letterhead and the seal stress the letters NEA which are the same letters used by the National Education Association. In another such invitation (CX 580) respondent Langdon states that NEAA was founded and is sponsored by Central Christian College. It claims that although not recognized by the United States Office of Education its "standards for accrediting are higher than Federal requirements." In still another letter, respondent Alvin O. Langdon states in part that NEAA was founded because no religious educational institution could be accredited by Federal or state agencies under the doctrine of separation of church and state (CX 53a). It also claimed that NEAA was "one of the finest accrediting agencies in the nation."

39. Respondent Alvin O. Langdon thus has represented that National Education Accrediting Association is a recognized bona fide

accrediting agency for schools and is a part of or has some connection with the National Education Association, a well-known and long-established organization of teachers and other persons interested in the field of education (CPF 16-18). By the adoption of the seal of accreditation as part of the catalogues (CX 52;RX 288) the other individual respondents have also implied that NEAA is a recognized accrediting agency and re-transmit the information that tends to imply a connection between NEAA and National Education Association.

Facts Regarding OCC and Its Operation

40. OCC is a shell through which respondent Alvin O. Langdon has operated a type of correspondence school with the assistance of his wife, respondent Leeta Langdon and a young protege, respondent Gene Thompson. Respondent Alvin O. Langdon dominates the others who do in effect just what he tells them (see Tr. 834 for Mrs. Langdon; see Tr. 842, 843 for Mr. Thompson). By their votes at an early meeting of the board of trustees, constituting with respondent A. O. Langdon all members of the board, they abdicated to him entire control of the operation (CX 2, 3 and 4). As previously noted, the Langdons had been in a similar operation in West Virginia. Under the auspices of the "mother church" they had run the Central Christian College. This activity was enjoined by the court at the instance of the Attorney General of the State (CX 593). The Langdons then returned to Columbus, Ohio, where they had lived off and on (Tr. 891 *et seq.*) and commenced anew with Ohio Christian College (unincorporated) as another arm of the mother church. This was soon "accredited" by respondent Alvin O. Langdon (Tr. 221) utilizing his NEAA to investigate and accredit his OCC (Tr. 49). From its inception to about January 1970, after the investigation of the Commission commenced, the entire faculty of OCC consisted of respondents Langdon and their protege respondent Gene Thompson (CX 51a-c). The last named respondent was a trustee and registrar of OCC (Tr. 938), supervisor of the "boys home" (Tr. 844), sole resident student (Tr. 208) and at times acting dean (CX 599).

41. Although the letterhead of OCC contained an impressive list of degrees held by the alleged faculty and board of advisors (CX 51a-c, CX 53a-c), in fact, respondent Alvin O. Langdon only claimed the board was available to teach—no instance of their actual participation was disclosed (Tr. 103). Of the three regular faculty members none had a degree based on residence study. Respondent Alvin O. Langdon claimed a degree from the Baltimore Conservatory of Music which he attended for a year (Tr. 882-883). All other degrees were

either based on correspondence work with schools he could not recall or were honorary (Tr. 883). So far as his doctorate degrees from Rev. Herman Keck's Faith Bible College (which incidentally his NEAA had accredited), they were based on tests and experience (Tr. 883). Mrs. Langdon also received her theological degree from Rev. Keck who gave it to her on the basis of a test on the Bible plus her years of experience in Sunday School and church work (Tr. 832). And, respondent Gene Thompson had two years of high school and received a Bachelor of Theology Degree from Dr. Keck's institution, Faith Bible and Theological Seminary (Tr. 849).

42. Turning now to facilities and operation, the library consists of textbooks. There are no regular classrooms or a laboratory (Tr. 158, 209-210, 268). Lessons are graded with an answer sheet supplied by the publishers of the textbooks (Tr. 238, 242-245, 831-832, 834). Students are credited for experience which they claimed they had had (CX 52). Respondent Thompson was the only alleged resident student (Tr. 208-209). One student was given a degree of Doctor of Education after a few months study. Prior to enrolling he (Tr. 789; CX 599) had a face to face conference with respondent Alvin O. Langdon who assured him that the credentials of the school had been accepted by the Pennsylvania Department of Public Education (Tr. 786). His degree was signed by respondent Alvin O. Langdon as President and respondent Gene Thompson as Dean (Tr. 789; CX 599). To earn this "degree" Mr. Abraham was required to pay \$270 (Tr. 787), to submit a partial transcript and statement of his later studies (Tr. 796) and to write a book report on the philosophy of religion, a 3100 stereotyped paper and a thesis of 2500 words. He did not receive grades on these but was granted a "diploma" (Tr. 787).

43. Very clearly this performance failed to even approximate the representations. Even the physical plant is wholly inadequate. The physical properties used by OCC and by APO as well as by Langdon in his capacity as National Education Accrediting Association consist of four residence type buildings located at 1156 Striebel Road, 1161 Yearling Road, 1911 Samada Road and 2456 Broad Street. The Langdons reside at the 1156 Striebel Road address and have done so since 1958 (Tr. 831). No one lives at the Broad Street or the Samada Road premises (Tr. 834). Respondent Gene Thompson and his wife live at 1161 Yearling Road and they supervise the two boys that are permanently residents there (Tr. 833). The houses respondents live in are in a residential neighborhood and have the physical appearance of residences.

44. A careful review of the stated operations of OCC by a large number of well-qualified educators (Tr. 289-445, 447-473, 474-496, 499-507, 508-551, 594-626, 698-745, 754-776) established that OCC's representations were false and misleading. It was not duly accredited as neither NEAA or Association of Fundamental Institutions of Religious Education were on the list of accrediting agencies approved by the United States Office of Education (Tr. 302-304) or of the National Commission on Accreditation (Tr. 464-465). In fact, in the opinion of the representative of the Commissioner of Education, its catalogue demonstrated that it fell far short of being a bona fide reputable college (Tr. 332) and its degrees and credits would not be accepted as such (Tr. 315-328). Both staff and physical equipment were deemed inadequate and the curriculum did not measure up to minimum standards. Specifically, the State of Ohio had not granted educational recognition to OCC merely a certificate of incorporation (Tr. 636-641, 647-653), and the State of Pennsylvania refused to recognize its degrees (Tr. 986-998). A representative of the Accrediting Association of Bible Colleges testified that OCC was not accredited and on the basis of its courses, facilities and faculty would not measure up to Bible College standards (Tr. 693-745). Similarly a representative of the American Association of Theological Schools, the accrediting agency for Graduate Seminaries made clear that OCC would not meet its minimum standards.

45. Hence it is clear that respondents' claim that they were using a unique method of instruction widely approved and accepted by educational authorities is false and misleading as are their claims of accreditation and the value and equivalency of OCC's degrees, credits and course of study (see CPF 22-100).

Facts Concerning APO

46. APO like OCC is in reality respondent A. O. Langdon, although Mrs. Langdon and respondent Thompson assist as members of the board of directors and in keeping up the so-called boys' home, as previously pointed out in our discussion of jurisdiction.

47. As a Professional Honor and Recognition Society of Psychological Counselors APO falls far short of the norm in membership, publications, and activities in the opinion of qualified experts on that subject (Tr. 564-577, 1026-1041). It is not composed of qualified counselors (Tr. 263-265, 576; CPF 139). It does not hold regular conferences or workshops (Tr. 260-261; CPF 140, 141) and its journals resemble rather a pseudo religious magazine than a scholarly

journal (CX 93-98). In the opinion of experts the journal articles in a bona fide organization of guidance counselors would contain scholarly articles of significant interest to counselors in that field (Tr. 573-76, 1035-37, 1049-1050; CPF 144, 145).

48. So far as the representations concerning the maintenance of a boys home are concerned, the performance falls far short of the promise. From the publicity, one would anticipate a series of cottages each housing six or eight boys on a permanent basis (CX 52; RX 288). In fact, while there are two boys generally in residence in the house occupied by the Thompsons, the presence of other boys is sporadic and in some cases no more than visits of sons of friends (See Tr. 212-213, 836-837, 843-844). Moreover, there is considerable doubt that the proper license has been obtained (Tr. 213, 677-682; CPF 146, 147).

49. Respondents thus have misrepresented the nature and activities of APO (CPF 149).

Facts Concerning NEAA

50. NEAA is not an accrediting organization at all; it is merely a registered trade name used by respondent Alvin O. Langdon, (Tr. 47) who signs himself executive secretary, (CX 99, 518) to issue invitations to institutions not eligible for accreditations by North Central or other State or Federal agencies (CX 518) seeking to have them secure a certificate of accreditation (CX 519, 522).

51. NEAA does not appear on the list of accrediting agencies issued by either the United States Office of Education (CX 528) or the National Commission on Accrediting (CX 531; Tr. 304); although in the opinion of educators this listing is regarded as almost a prerequisite to recognition (CPF 101).

52. The procedures used by respondent Alvin O. Langdon are wholly inadequate in the opinion of experts in the accrediting field (CX 529, 532, 538, 582; Tr. 304-305, 438, 456-461, 696-698, 756-759). These procedures used by NEAA consist merely of a decision by respondent Alvin O. Langdon on the basis of a form filled out by the applicant institution (CX 520; Tr. 49, 120; CPF 104-105, 106). Moreover, in the case of the accreditation of OCC the operation was in effect respondent Alvin O. Langdon accrediting himself (Tr. 48, 49, 224-225; CPF 131). This is wholly inadmissible in the opinion of experts in the field (CPF 128-131) as careful procedures are specified and meticulously followed (CPF 103, 108, 111, 113, 115, 117, 119, 121, 123, 125).

53. With regard to the use of the initials NEA by NEAA, such initials are those of a well-known and highly respected association of

educators (Tr. 502, 506-507) that is known by the initials NEA (CX 555-557; Tr. 502-505). NEAA is in no way connected with National Education Association (Tr. 270, 507) and the use of the latter's initials by NEAA in its letterhead and in its seal may mislead and certainly places in the hands of others the means of misleading prospective students as to NEAA's connections.

54. Thus the representations and implications that NEAA is a recognized bona fide accrediting agency for schools and the implication that it is connected with the National Education Association (all of which are attributable to each of the individual respondents through their authorization of the use of the seal of accreditation on the documents issued under the name of OCC (CX 52, 288) are false and misleading (CPF 101-137).

55. By and through the use of the aforesaid acts and practices, respondents place in the hands of individuals the means and instrumentalities by and through which they may mislead and deceive others as to the diplomas, degrees, and other academic qualifications said individuals possess. Further, by and through the use of the aforesaid acts and practices, respondents place in the hands of operators of schools accredited by National Educational Accrediting Association, the means and instrumentalities by and through which they may mislead and deceive prospective students as to the status of such schools (CPF 1-150).

56. In the course and conduct of their aforesaid activities and at all times mentioned herein respondents have been, and now are, in substantial competition, in commerce, with corporations, correspondence schools, residence colleges and universities of various kinds and nature engaged in offering education, training, and instruction (RX 3).

57. In the course and conduct of his aforesaid activities, and at all times mentioned herein, respondent Alvin O. Langdon, trading as National Educational Accrediting Association has been, and now is in substantial competition, in commerce, with accrediting agencies and other educational organizations engaged in offering accreditation to schools, and providing educational services (CX 528, 531).

58. In the course and conduct of their aforesaid activities, and at all times mentioned herein, respondents have been and now are, in substantial competition in commerce, with guidance counselor organizations, and other corporations and organizations engaged in charitable activities.

59. The use by respondents of the aforesaid false, misleading and deceptive statements, representations, and practices has had, and now

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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 purchase the courses of instruction, diplomas and certificates of accreditation above described.

60. The acts and practices of respondents, heretofore described, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted and now constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce.

REASONS FOR DECISION

The hearing examiner is faced with a situation where the activities of all of respondents, as counsel supporting the complaint described them, "constitute an affront to the bona fide educational community of the United States * * *" ⁶ and would if the Commission possessed jurisdiction also constitute unfair acts and practices by each of them within the meaning of Section 5 of the Federal Trade Commission Act.

However, in the opinion of this examiner the preponderance of the evidence fails to demonstrate that the Commission possesses jurisdiction over either respondent Ohio Christian College (of Calvary Grace Christian Churches of Faith, Inc.) (referred to as OCC) or respondent Alpha Psi Omega Society, (referred to as APO) under the most recent decision on the subject.⁷

Both of these organizations are incorporated as not for profit corporations and the certificates of incorporation of both provide that on dissolution their assets must be distributed to non-profit organizations. It has not been established that profits from either are distributed to their members or to non-charitable ends (Tr. 953).

Moreover, in the case of OCC all of its funds are deposited in the bank account of an IRS recognized exempt institution Calvary Grace Christian Churches of Faith, Inc. (an Ohio corporation hereinafter referred to as the Calvary Church) and disbursements are made from that account to cover OCC's expenses. All of the real property used by OCC except one parcel owned by the son of respondent Alvin O. Langdon, is in the name of the Calvary Church and only interest on the mortgage on the son's property is paid for the use of that property.

⁶ Introductory statement to Complaint Counsels' Proposed Findings p. 2.

⁷ *Community Blood Bank of Kansas City Area, Inc. v. FTC*, 405 F.2d 1011 (8th Cir. 1969).

There are indeed a number of very suspicious circumstances. The Calvary Church and both respondents OCC and APO are, under resolutions passed by the trustees, completely dominated by respondent Alvin O. Langdon. He has complete operational control of everything and he also has sole control of the purse strings and makes all the decisions. Thus the two corporations are mere shells without substance. The testimony of both the Langdon respondents and of respondent Thompson is inherently incredible. Either their memories were faulty or they were deliberately evasive.⁸ However, there was no solid proof offered by complaint counsel that funds were used except in full accord with the non-profit character of the organizations, merely proof that modest salaries and expenses of the Langdon re-

⁸ Respondent Mrs. Langdon for example could not give an estimate of how many boys were at the home at any particular time and didn't think that she was a trustee of APO (Tr. S31, S33). She attended meetings of the board of trustees of OCC, voted but didn't have much to say (Tr. S34). Although she received a check she couldn't say what bank the check was drawn on (Tr. S38) and she claims she never signed a bank resolution although the record indicates she was a director of OCC and APO and Calvary Church (Tr. S38).

Respondent Gene Thompson the registrar and for a time the acting dean of OCC didn't know how long he held that position (Tr. S38). He claimed he didn't prepare but merely typed the transcripts (Tr. S40) and he couldn't give any estimate of how many he had sent out (Tr. S41). Although he signed the applications, (e.g. CX 83) he was very vague about how they were approved (Tr. S42-S43). Although the premises at 2456 West Broad Street had been purchased only 1 or 2 months before Thompson couldn't remember how long they had been occupied (Tr. S45). He could give no estimate of how many boys had been served nor could he tell how much it cost to serve boys at the home he supervised (Tr. S47-S48). Although the purchase of the Samada Road property was discussed with the board of directors, Thompson couldn't remember the discussion (Tr. S51-S52) and didn't know how long the property had been owned by Calvary Church.

Respondent Alvin O. Langdon couldn't remember the names of the correspondence schools from whom he had secured lessons (Tr. S83). With respect to the dates of the use of documents which he was asked to identify, respondent Langdon was extremely vague (Tr. 75, 78, 89).

With regard to the faculty of OCC respondent Langdon was also vague and claimed that all persons on the letterhead were available to teach as needed (Tr. 103) but when pressed later he was extremely evasive (Tr. 241). With respect to the degrees which he claimed to have obtained he could not give the dates when they were obtained. He was also vague concerning publications used by APO (Tr. 146-149).

Respondent Langdon was even vague as to what books OCC had and where they were located (Tr. 163, 168).

Mr. Langdon's claim with respect to the requirement of church membership before individuals could be members of a college was both vague and possibly contradictory. He first said that the requirement for church membership was true since almost the beginning (Tr. 176) and when shown Abraham's application he was not sure when the requirement went in (Tr. 180-182). He finally admitted they never rejected students' applications because they did not join the church (Tr. 191-192).

Until shown previous statements, respondent A. O. Langdon was unable to estimate the receipts of OCC or APO and would only say that he thought that NEAA had lost money (Tr. 246-248). Although he admitted a \$2500 salary he said he did not receive it (Tr. 251). He was not sure of the location of or who ran the Fundamental Institutions of Religious Education which it is claimed accredited OCC. He said this was done about 1965 before Ohio Christian College was incorporated and while it was still an arm of the church. He did admit that it had the same P.O. Box as Dr. Keck's institutions.

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spondents and respondent Thompson were paid by Calvary Church.

This situation, in the opinion of the examiner, is an excellent reason for a recommendation to Congress for legislation to extend the jurisdiction of the Commission to include cases where so-called charitable and educational organizations are actively engaged in deceptive practices.

Here, clearly, the deceptive practices charged took place and are continuing.

Unlike the cases of the nonprofit corporate respondents OCC and APO, National Educational Accrediting Association (hereinafter NEAA) is stipulated to be a name under which respondent Alvin Langdon operated as sole proprietor. He claimed it was formed under church auspices for the purpose of accrediting colleges that were not eligible for accreditation by the recognized organizations (CX 59a). It operated through the mails in interstate commerce to supply accreditation certificates for a fee to alleged colleges including OCC with the result that credulous students might be misled into believing that such alleged colleges were duly accredited institutions as that term is generally understood. Hence, so far as NEAA's activity is concerned, an order may properly be issued against respondent Alvin O. Langdon.

Moreover, unlike the public spirited lawyers, ministers and doctors who operated the nonprofit organizations without compensation in *Community Blood Bank of Kansas City Areas, Inc. v. Federal Trade Commission*, 405 F.2d 1011 (8th Cir. 1969), and who were thus held not to be subject to the jurisdiction of the Commission, each of the individual respondents here were active participants in the day to day operation of the unfair practices and three of them (the two Langdon respondents and respondent Thompson) secure their livelihood from the operation and the fourth Mr. Weiner is their attorney and has taken over the operation of the organizations, with their consent, continuing many of the same practices as before with knowledge of the Federal Trade Commission investigation. In addition, respondent Langdon's previous adventure into Central Christian College ended in an injunction by the Attorney General of West Virginia and his NEAA operation was the subject of a suit by National Education Association. So, he and presumably Mrs. Langdon were well aware of the misleading character of their present operation. Respondents cannot be shielded by the corporate shells of OCC and APO (CX 593a-b). Accordingly, the individual respondents should be expressly prohibited from continuing to carry on the unfair practices and affirmatively ordered to institute corrective action. Action against the individuals is required in any event because the history of the Lang-

don respondents' similar venture in West Virginia demonstrates that OCC and APO may easily be dropped and another college and a different society started.⁹ We turn now to disclaimers.

In making this initial decision the hearing examiner has not based it in any part on the early record of respondent Alvin O. Langdon (Tr. 946) and has taken at face value respondent's assurance of conversion (Tr. 947). Nor has this examiner based his decision on any of the testimony that tended to establish norms or prerequisites for securing an education. The evaluation of education is not his function. He has limited his consideration to the statements and representations made or authorized by the individual respondents and the implications therefrom that he has found to be false or misleading.

With regard to the claim that the activity involved is within the clause of the First Amendment of the Constitution forbidding Congress to make any law "prohibiting the free exercise" of religion, the claim is simply not true.

The initial misleading advertising is not limited to church members, and respondent Langdon's position that only church members were permitted to enroll was later modified by him. It was clearly not true. In addition, no clause in the order is in any way to be construed to regulate the exercise of the religious teaching of respondents—prohibited only is the use of false and misleading advertising and representations in interstate commerce. There is then a requirement for corrective action that is deemed necessary because of the experience of the Pennsylvania teacher group in attempting to use the OCC degrees (see Tr. 988-993).

For the foregoing reasons, we reach the following conclusions:

CONCLUSIONS

1. The Federal Trade Commission has jurisdiction over the subject matter of this proceeding and over the person of each of the respondents except Ohio Christian College (of Calvary Grace Christian Churches of Faith, Inc.) and Alpha Psi Omega Society. The last two named respondents have not been shown to be corporations within the meaning of Section 4 of the Federal Trade Commission Act (16 U.S.C. 33) and the proceeding will be dismissed as against them.

2. Respondents have engaged and are now engaging in deceptive acts and practices in violation of Section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

3. The following order should issue.

⁹ See *FTC v. Standard Education Society*, 302 U.S. 112 (1937); *Dlutz v. FTC*, 406 F.2d (3rd Cir. 1968), cert. denied, 395 U.S. 936.

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ORDER

It is ordered, That the complaint be and it is hereby dismissed against respondents, Ohio Christian College (of Calvary Grace Christian Churches of Faith, Inc.), a corporation, and Alpha Psi Omega Society, a corporation, by reason of lack of jurisdiction over such respondents.

It is further ordered, That Alvin O. Langdon, Leeta O. Langdon, Gene Thompson and Jerry Weiner, individually, and Alvin O. Langdon, an individual trading and doing business as National Educational Accrediting Association or under any other name or names, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of correspondence courses, diplomas, certificates of membership or accreditation in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "college" or any other word or words of similar import or meaning as a part of a corporate or trade name, or in any other manner, to describe or designate any of respondents' businesses; misrepresenting, in any manner, the nature, character or affiliation of any of respondents' businesses.
2. Conferring or offering to confer upon anyone any academic degree.
3. Representing, directly or by implication, that:
 - (a) Any of respondents' businesses: offers resident classes; is accredited by a recognized accrediting agency; offers a curriculum or course of study which is accredited by a recognized accrediting agency; or has a staff of faculty members who are trained and competent to teach the courses of a properly accredited and recognized college;
 - (b) The diplomas offered by respondents are recognized as signifying completion of an academic course, or that the recipients of respondents' diplomas will be recognized as having satisfactorily completed a properly accredited curriculum in any educational field;
 - (c) Recipients of respondents' diplomas will be entitled to and will receive the same honors, privileges and rights that recipients of diplomas from schools accredited by a recognized accrediting agency are entitled to receive;
 - (d) Respondents' correspondence courses contain all of the subject matter or material, study or curriculum hours included in courses covering the same or similar subjects of-

ferred by a school accredited by a recognized accrediting agency.

(e) The State of Ohio, or any other governmental or political subdivision, agency or body, has approved or recognized the respondents' courses, diplomas or degrees;

(f) Ohio Christian College (of Calvary Grace Christian Churches of Faith, Inc.) offers and is using a unique method of instruction and study that is widely approved and accepted by educational authorities; or misrepresenting, in any manner, respondents' instructional methods.

4. Using the name "National Educational Accrediting Association," or any other name or names of similar import or meaning, or representing, in any other manner, directly or by implication, that respondents' business is that of a bona fide accrediting agency for schools or that respondents have any connection of any kind with the National Education Association; misrepresenting, in any manner, the character, purpose or affiliation of any of respondents' businesses.

5. (a) Using the word "society" or any other word or words of similar import or meaning as a part of a corporate or trade name, or in any other manner, to describe or designate any of respondents' businesses;

(b) Representing, directly or by implication, that any of respondents' businesses is a bona fide organization of guidance counselors or other persons interested in the field of counseling joined together for common interest or that respondents have founded, sponsor or maintain a home for homeless boys; misrepresenting, in any manner, the nature or purpose of any of respondents' businesses or the use made of the monies received by any of respondents' businesses.

It is further ordered, That respondents notify the Commission at least thirty days prior to any proposed change in either Ohio Christian College or Alpha Psi Omega Society such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations, or any of them, which may affect compliance obligations arising out of this order.

It is further ordered, That respondent Alvin O. Langdon shall forthwith: (1) send by registered mail a copy of this order to each corporation, firm or individual granted accreditation by National Educational Accrediting Association and (2) send a copy of this order by ordinary mail to the last known address of each person awarded a

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diploma or degree by Ohio Christian College or holding a membership in Alpha Psi Omega Society.

It is further ordered, That respondents herein shall, within sixty (60) days after this order becomes final, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

OPINION OF THE COMMISSION

MAY 19, 1972

BY DENNISON, *Commissioner*:

This matter involves the misleading and deceptive practices of two nonprofit corporations and the individuals who control such corporations. It is before the Commission on the cross-appeals of respondents and complaint counsel from the initial decision of the hearing examiner. The gravamen of both appeals is not the examiner's finding that the parties had misled and deceived, rather it was the finding that the Commission lacks jurisdiction over the nonprofit corporations but that an order against the individual respondents (who controlled and operated the nonprofit corporations) is appropriate.

Complaint counsel appeal the examiner's finding that the corporate respondents were not "organized to carry on business for [their] own profit or that of [their] members."¹

Respondents' counsel appeal the finding that the individuals (who claim they were acting solely in behalf of the nonprofit corporations) were subject to our cease-and-desist order even though the corporations are not. They assert that this ruling makes any corporate exemption illusory inasmuch as corporations can only act through individuals.

The Commission finds itself able to agree with both parties in this matter.

Certainly, to circumvent a legislative restriction of the Commission's authority over certain classes of companies by issuing orders against all individual officers, agents, directors or trustees would be contrary to the intent of Congress. Should we confer upon the Commission the authority to issue orders against individuals heading exempt organizations it could lead to a variety of untenable situations, such as the Federal Trade Commission ordering the head of another governmental agency to cease and desist from, *e.g.*, falsely advertising the merits of military service or conducting activities which might

¹ Section 4, Federal Trade Commission Act (15 U.S.C. 44).

restrain trade. By the same token, an order such as that proposed by the hearing examiner here could be easily thwarted by selling the nonprofit corporation to a third party and permitting him to continue the offending practices. The Commission concurs with the views of respondents that this result is undesirable and has concluded that, absent a finding that the corporate respondents are subject to the Commission's jurisdiction, conduct of the individual respondents *while acting solely on behalf of such corporations* cannot support the issuance of an order.

The reverse is equally true: If individuals direct and control the acts and practices of an amenable corporation, then they too may be made subject to orders along with the corporate respondent.² A finding that the corporations are amenable is the result urged by complaint counsel.

The hearing examiner found that notwithstanding the acts of the corporate respondents, which "constitute an affront to the bona fide educational community of the United States,"³ the Commission lacks "jurisdiction over either [corporate] respondent***under the most recent decision on the subject."⁴ The decision referred to by the examiner is *Community Blood Bank of Kansas City Area, Inc. v. Federal Trade Commission*.⁵

To determine the validity of complaint counsel's arguments that the corporate respondents here should be treated differently than was the case in *Community Blood Bank*, it is necessary to compare the two cases, the practices involved, the apparent or concealed motives of the individuals in control, and the end to which the corporate entity was employed.

In *Community Blood Bank*, the Commission issued a complaint against the principal respondent (Community), a nonprofit Missouri corporation, its directors and officers and the Kansas City Area Hospital Association (AHA), another nonprofit corporation, for entering into an agreement to boycott two fledgling commercial blood banks. Counsel for respondents asserted, and the Commission and the court found, "that no part of any funds received by Community and AHA have ever been distributed or inured to the benefit of any of their members, directors or officers; all receipts have been used exclusively for the purposes authorized by law and their articles of incorporation; all funds received by Community originated from gifts, loans and grants, replacement blood donations and payment of responsi-

² *Federal Trade Commission v. Standard Education Society*, 302 U.S. 112 (1937).

³ Initial Decision, p. 838.

⁴ *Ibid*

⁵ 405 F.2d 1011 (8th Cir. 1969).

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bility and processing fees; AHA received its funds from grants, loans, gifts and dues of member hospitals.”⁶ The officials in control of the corporate respondents and named as individual respondents were “public-spirited volunteers and derived no personal profit, benefit or advantages in their individual occupations as businessmen, lawyers, doctors, labor leaders or clergymen from their participation in the activities of the community-wide blood bank program. Their activities at all times were directed toward promoting a community-sponsored program in the public interest and at no time were infected with commercial intent.”⁷ In his dissenting opinion, Commissioner Elman pointed out: “There is no contention that any of the corporate respondents is a device or instrumentality of individuals or firms who seek monetary gain through the nonprofit corporation.”⁸

The court, holding that the corporate respondents were not subject to the jurisdiction of the Commission, found their boycotting activities were motivated by a sincere belief that commercial trafficking in blood was immoral and not in the public interest. Whether one agrees with this belief or not, it is apparent the actions of the corporate respondents in *Community Blood Bank* were well-intentioned and did not inure to the financial benefit of anyone.

This is not the case in *Ohio Christian College*. In this matter, the corporate respondents are Ohio Christian College (of Calvary Grace Christian Churches of Faith, Inc.) (OCC), a nonprofit Ohio corporation, and Alpha Psi Omega Society (APO), a nonprofit Ohio corporation purportedly created as a guidance and counseling organization to care for homeless boys. The examiner found both corporations to be “in reality respondent A. O. Langdon***.”⁹ The methods adopted and used by the Ohio Christian College reduced it to little more than a “diploma mill.” The brochure sent to prospective “students” who respond to OCC’s numerous advertisements in national periodicals imply that the college was of the traditional type offering degrees of the character of accredited institutions.¹⁰ “Prospective students are told in the catalogue that they may pursue resident study but if not able to afford it may get home study (or extension) courses at a fraction of the cost of resident study. This is touted as

⁶ *Id.* at p. 1020.

⁷ *Id.* at p. 1021–22.

⁸ *Community Blood Bank of the Kansas City Area, Inc., et al.*, FTC Docket No. 8519, 70 F.T.C. 728, 950 (1966).

⁹ Initial Decision, Finding 46.

¹⁰ The individual respondent, A. O. Langdon, went so far as to create an accrediting association (National Educational Accrediting Association (NEAA)), which accredited OCC. The name and seal of NEAA was easily mistaken for those of the National Education Association (NEA). The Commission’s order prohibiting its use has not been appealed and is not an issue here.

a new educational plan. The prospective student is promised credit for experience which will reduce his home study requirements. Even an honorary degree is offered 'to eligible candidates in recognition of their accomplishments and achievements.' In earlier catalogues it was made clear that a fee of \$50 would be required with each application to be applied toward the tuition but in the case of honorary degrees the applicants' contribution of a full \$100 would be needed."¹¹ As one student, a Pennsylvania public school teacher seeking his Master's Degree, found, the OCC degree received was virtually meaningless.¹²

Alpha Psi Omega is purportedly a professional society created to further the discipline of guidance counselors and professional counselling methods, research and techniques. This respondent charges prospective members annual dues by representing that APO is a bona fide organization of guidance counselors and that one of its principal programs is the maintenance of a home for homeless boys. The hearing examiner found the respondent did not meet even a reasonable criteria for a professional society. The home for boys was generally the house used as a personal residence of one of the individual respondents and the presence of boys was sporadic, in some cases no more than visits of sons of friends.¹³

COMMISSION JURISDICTION

The Commission agrees with the hearing examiner, that should it have jurisdiction it should issue an order preventing future abuses. The inquiry as to whether the corporate respondents were carrying on a business "for [their] own profit or that of [their] members" raises, as the hearing examiner stipulated, "very suspicious circumstances."¹⁴ We are unpersuaded by his conclusion that we lack jurisdiction. From the record it appears that he was correct in holding that these corporate respondents were, in reality, the individual respondent, A. O. Langdon, using the guise of the nonprofit corporation to further his own finance and comfort, *albeit* he was not too successful, as we will discuss *infra*. Both corporations are completely dominated by this individual respondent. "He has complete operational control of everything and he also has sole control of the purse strings and makes all the decisions. Thus the two corporations are mere shells without substance."¹⁵ This "shell game" has given the individual respondents much of their subsistence and shelter and provided ex-

¹¹ Initial Decision, Finding 29 (citation omitted).

¹² *Id.*, Finding No. 20.

¹³ *Id.*, Finding Nos. 47, 48.

¹⁴ Initial Decision, p. 839.

¹⁵ *Id.*

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pensive automobiles for them to drive. Profit, for the purpose of Section 4 of the Federal Trade Commission Act, is not limited to dividends, gains or direct reward. The Ohio Supreme Court is in accord and confirms local law in that jurisdiction by holding:

Profit does not necessarily mean a direct return by way of dividends, interest, capital account or salaries. A saving of expense which would otherwise necessarily be incurred is also a profit to the person benefited.¹⁶

While the terms employed in other statutes and the interpretation adopted by other agencies are not controlling, the treatment of exemptions for nonprofit corporations by other branches of the Federal Government is helpful. The Internal Revenue Act creates a tax exemption for "corporations***organized and operated exclusively for ***educational purposes***no part of the net earnings of which inures to the benefit of any private shareholder or individual***." ¹⁷

In 1960 the Commissioner of Internal Revenue reviewed the non-profit tax exemption status of an educational corporation which was similar in structure to OCC. Notwithstanding the fact the corporation had been afforded an exemption certificate, the Internal Revenue Service and the court found that because of the lax financial dealings with the founders of the school, it was not in fact an exempt corporation.¹⁸ The court determined that there was comingling of funds, that numerous individual expenses of the controllers were paid by the corporation and that the individual controllers on occasion treated the assets of the corporation as their own. These facts are similar to the relationship of Ohio Christian College to its principals.

The Internal Revenue Service looks to the ultimate disposition of income as a determinative factor. The Commission agrees that the question is not whether a corporation amassed profit, but how it disposed of such profit. From the facts available to the Commission, we find the relationship between OCC and the individual respondents in dealing with the dissipation of profits strikingly similar to that existing between a closely-held commercial corporation and its officer-shareholders. The cavalier treatment of the corporate assets and finances leads us to conclude that respondents considered them their own. The individual respondent, A. O. Langdon, has complete control over the purse strings, he sets all salaries (including his own),¹⁹ determines all allocation and expenditures, signs all checks and exercises plenary power over the affairs of the school. The record shows

¹⁶ *Russell v. Sweeney*, 153 Ohio St. 66, 68, 91 N.E.2d 13, 16 (1950).

¹⁷ 26 U.S.C. 501(c)(3).

¹⁸ *Birmingham Business College, Inc. v. Commissioner*, 276 F.2d 476 (5th Cir. 1966).

¹⁹ Transcript, p. 867.

the corporation was organized and controlled so that the individual respondents could take what they wanted prior to any further disposition or comingling of funds.

The structure and financial dealings of Ohio Christian College (indeed many of the unfair and deceptive acts and practices) are similar to that found in *Bethany College and Divinity School, et al.*,²⁰ an Illinois nonprofit corporation. In that case the Commission had little difficulty holding the corporation as a responsible party.

Section 4 of the Federal Trade Commission Act operates as a shield for legitimate, bona fide eleemosynary institutions to protect them from unwarranted governmental interference. To use this protection as a sword and suffer the public to be injured, cheated and bilked is quite another matter. "In such a case, piercing the non-profit corporate veil and recognizing the [respondent] for what it is—a device by which individual[s]***for private gain, seek [to deceive the public]—does no violence to the Congressional design embodied in Sections 5(a) (6) and 4 of the Federal Trade Commission Act; failure to pierce the veil, indeed, would elevate form over substance to an unreasonable degree, and lay the path to evasion of the Act wide open."²¹

Our decision today is to block one such path to evasion. Ohio Christian College and Alpha Psi Omega have, using the shield of nonprofit corporate status, misled and deceived the public. Prevention of these acts were and are the function of the Federal Trade Commission as envisaged by the Congress.²²

Two additional issues presented deserve discussion: The fact the corporate respondents comingled funds with a nonprofit, religious institution, and the fact that respondents were apparently not very successful in their enterprise. Respondents point out some portion of the funds received by the college and the guidance society are contributed to the Calvary Grace Christian Church, a religious institution headed by the individual respondent. Respondents would require us to find that the religious institution is subject to our jurisdiction before issuing an order against the corporate respondents. This is clearly not necessary since only the named corporate and individual respondents perpetrated the acts in question. The folly of this position can be illustrated by using an extreme example: What differences does it make to the injured public whether a thief tithes? The public needs

²⁰ 49 F.T.C. 1 (1952).

²¹ *Community Blood Bank of the Kansas City Area, Inc.*, 70 F.T.C. 728, 949 (1966), Commissioner Elman's dissent.

²² *Federal Trade Commission v. Sperry & Hutchinson Co.*, 401 U.S. 992 (1972).

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the protection, and whether the corporate respondents give money to a religious institution or not does not detract from our determination to protect consumers.

Respondents also make mention of the low salaries they receive from the college and professional society. Aside from the fact the "fringe benefits" are not inconsiderable, it is not relevant whether a respondent is highly successful or not. The question is whether the public is being injured. We find substantial public interest in the facts that consumers were being deceived and that the image of reputable colleges, accrediting associations and professional associations was being tarnished. That respondents were poor businessmen is of little consequence.

In conclusion, we are revising the hearing examiner's findings and conclusions as to our jurisdiction over the corporate respondents herein. As to all other factual findings and conclusions, we adopt his decision. The examiner's order, after modification to make the corporate respondents amenable to the order, is adopted by the Commission.

Commissioner MacIntyre concurs in the result as to the individual respondents.

IN THE MATTER OF

MORSLY INCORPORATED, ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE