

AMERICAN STATES DEVELOPMENT CORPORATION,
ET AL.

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

Docket C-2362. Complaint, March 9, 1973—Decision, March 9, 1973.

Consent order requiring an Indianapolis, Indiana, training school for truck drivers and its subsidiaries, among other things to cease misrepresenting the nature of respondents' business; failing to disclose that inquirers to respondents' advertising will be visited by sales representatives; misrepresenting offers of employment; misrepresenting the quality or nature of training equipment available; misrepresenting the nature or purpose of any fees paid by prospective purchasers to respondents; misrepresenting the terms and conditions under which payment for courses may be made; failing to disclose to customers their rights to a cooling-off period in which they may cancel their sales contract and receive a refund of all monies paid and failing to make refunds upon request.

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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 American States Development Corporation, a corporation, Transport Systems, Inc., a corporation, Express, Inc., a corporation, and Tom Johnson, individually and as an officer of the said corporations, and also doing business as Empire Express, Inc., and doing business as Astro Systems, Inc., and J. C. Triplett, individually and as an officer of the said American States Development Corporation, 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:

PARAGRAPH 1. Respondent American States Development Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its principal office and place of business located at 1414 South West Street, Indianapolis, Indiana.

Respondent Transport Systems, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 1414 South West Street, Indianapolis, Indiana.

Respondent Express, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 1414 South West Street, Indianapolis, Indiana.

Respondent Tom Johnson is an officer of respondents American States Development Corporation, Transport Systems, Inc., and Express, Inc., and also does business as Astro Systems, Inc., and as Empire Express, Inc. He formulates, directs and controls the acts and practices of the corporate respondents American States Development Corporation, Transport Systems, Inc., and Express, Inc. His address is the same as that of said corporations.

Respondent J. C. Triplett is an officer of respondent American States Development Corporation. He formulates, directs and controls the policies, acts and practices of respondent American States Development Corporation, including the acts and prac-

tices herein set forth. His address is the same as that of said corporation.

The respondents herein, have in the past, cooperated and acted together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and have been for some time last past, engaged in the advertising, offering for sale, sale and distribution of courses of study and instruction purporting to prepare graduates thereof for employment as truck drivers and related occupations. Said courses consist of a series of lessons pursued by correspondence through the United States mails and a period of in-residence training at a place designated by respondents.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, the correspondence portion of their courses, when sold, to be sent from respondents' place of business in the State of Indiana to purchasers thereof located in various other States of the United States. Respondents utilize the services of salesmen who induce prospective purchasers of respondents' courses located in states other than the State of Indiana to call on said salesmen at respondents' offices. Said salesmen transmit to and receive from respondents contracts, checks and other instruments of a commercial nature. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in said courses of study and instruction 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 obtaining leads to prospective purchasers of their courses, respondents have published or caused to be published in the "Help-Wanted" and other columns of newspapers advertisements containing statements and representations regarding job opportunities, training and wages for persons interested in becoming truck drivers. Typical and illustrative, but not all inclusive of such advertisements is the following:

SEMI DRIVERS NEEDED

Over age 21, Married or Single, good physical condition, some experience or willing to learn to earn high wages driving Semi Tractor Trailers, Local or Over the Road. Midwest, Mideast and Southern areas. For application write % Trucks P. O. Box 40456, Indianapolis, Ind., 46205, or call (317) 784-1348.

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PAR. 5. By and through the use of the statements and representations contained in the advertisement set forth in Paragraph Four and others of similar import and meaning but not expressly set out herein, respondents represent, directly or by implication, that:

1. Respondents operate a trucking company.
2. Respondents are offering employment to qualified applicants who will be trained as truck drivers.

PAR. 6. In truth and in fact:

1. Respondents did not, and do not, operate a trucking company.
2. Respondents do not offer employment to persons who will be trained as truck drivers. The real purpose of such advertisements is to obtain leads to prospective purchasers of respondents' courses of study and instruction.

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

PAR. 7. In the further course and conduct of their business as aforesaid, respondents cause persons who respond to advertisements seeking leads to prospective purchasers to visit respondents' salesmen at respondents' offices. For the purpose of inducing the sale of respondents' courses, such salesmen make to prospective purchasers many statements and representations, direct and by implication, regarding opportunities for employment as truck drivers available to purchasers of respondents' courses, the assistance furnished to respondents' graduates in obtaining employment and other matters. Some of the aforesaid statements and representations appear in brochures, pamphlets and other printed material furnished to said salesmen by respondents and other statements and representations are made orally by said salesmen. Among and typical, but not all inclusive, of such statements and representations are the following:

1. Respondents have been requested by trucking companies to train drivers and, therefore, employment as a truck driver is assured to persons completing respondents' course.
2. Respondents operate and maintain school facilities, and that respondents provide training and instruction for prospective truck drivers at these school facilities.

3. Respondents will train enrollees on the best and most up-to-date trucks and auxiliary equipment available in the trucking industry.

4. Persons completing respondents' course will thereby be qualified for employment as local or over-the-road truck drivers without further training or experience.

5. Persons enrolling in respondents' course are required to post a bond or pay an insurance fee.

6. Payment of the balance of the cost of respondents' course remaining after the initial or registration fee has been paid can be deferred until after the student has completed the course and obtained employment as a truck driver.

7. To other prospective purchasers of respondents' course, representations have been made that respondents will handle or arrange financing of the balance of the cost of respondents' course remaining after the initial or registration fee has been paid.

8. Persons enrolling in respondents' courses of study and instruction will receive a full refund of all monies paid to respondents upon request at any time prior to beginning the resident training portion of respondents' courses.

9. Respondents have a placement service which will secure a job as a local or over-the-road truck driver for graduates of respondents' course and such a job is assured for everyone who wants to work.

10. Graduates who desire employment in a particular geographic area are assured of a job in the area of their choice.

PAR. 8. In truth and in fact:

1. Respondents have not been requested by trucking companies to train drivers and, therefore, employment as a truck driver is not assured to persons completing respondents' course.

2. Respondents do not operate and maintain school facilities that provide training and instruction for prospective truck drivers. Respondents have no school or training facilities whatsoever and send all enrollees to an independent truck driver training school.

3. Respondents own no trucks or auxiliary equipment whatsoever. The equipment provided by the independent training school is of poor quality and is often inoperable.

4. Persons completing respondents' course are not thereby

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qualified for employment as local or over-the-road truck drivers without further training or experience.

5. The sum of money that enrollees in respondents' course are required to pay is not a bond or an insurance fee but is a non-refundable registration fee.

6. Respondents generally require that the balance of the cost of respondents' course remaining after the initial or registration fee has been paid must be paid before the student can attend the resident training portion of the course and do not permit students to defer such payments until after employment as a truck driver has been obtained.

7. Respondents seldom if ever handle or arrange financing to enable purchasers of respondents' course to pay the balance of the cost.

8. Respondents will not make refunds to persons who have requested refunds and have not begun the resident training portion of respondents' course.

9. Respondents do not have a placement service which will secure a job as a local or over-the-road truck driver for graduates of respondents' course and such a job is not assured for everyone who wants to work.

10. Graduates who desire employment in a particular geographic area are not assured of any job much less a job in the area of their choice.

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

PAR. 9. 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, institutions, and organizations of various kinds, engaged in the sale and distribution of similar courses of study and instruction.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has the tendency and capacity to mislead and deceive a substantial portion 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 respondents' said courses of study or instruction by reason of said erroneous and mistaken belief.

PAR. 11. 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.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Chicago Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its rules, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent American States Development Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its principal place of business located at 1414 South West Street, city of Indianapolis, State of Indiana.

Respondent Transport Systems, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal place of business located at 1414 South West Street, city of Indianapolis, State of Indiana.

Respondent Express, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its principal place of business located at 1414 South West Street, city of Indianapolis, State of Indiana.

Respondent Tom Johnson is an officer of said corporations. He formulates, directs and controls the policies, acts and practices of said corporation, and his principal place of business is located at the above stated address. Respondent Tom Johnson also does business as Empire Express, Inc., and as Astro Systems, Inc., also at the above stated address.

Respondent J. C. Triplett is an officer of said respondent American States Development Corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his address is the same as that of said corporation.

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

ORDER

It is ordered, That respondents American States Development Corporation, a corporation, Transport Systems, Inc., a corporation, and Express, Inc., a corporation, their successors and assigns, and their officers, and Tom Johnson, individually and as an officer of said corporations, and doing business as Empire Express, Inc. and Astro Systems, Inc., and J. C. Triplett, individually and as an officer of American States Development Corporation, and respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of courses of study and instruction in truck driving or any other subject, trade or vocation, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any respondent is a trucking company; misrepresenting, in any manner, the nature of business of any respondents.

2. (a) Failing to disclose, clearly and conspicuously, in advertisements seeking leads to prospective purchasers of respondents' courses, in catalogs, brochures and on letterheads that respondents' business is that of a seller of a course of study and instruction for prospective truck drivers, and related occupations, not affiliated with any trucking company.

(b) Failing to disclose, clearly and conspicuously, in advertisements seeking leads to prospective purchasers of respondents' courses which are sold through sales representatives, that inquirers will be visited by respondents' sales representatives.

3. Representing, directly or by implication, that employment is being offered when the real purpose of such offer is to obtain leads to prospective purchasers of respondents' courses.

4. Failing to specify, clearly and conspicuously, as a condition to the publication of classified advertisements seeking leads to prospective purchasers, that such advertisements be published only in the education, instruction or similar columns of classified advertising.

5. Representing, directly or by implication, that respondents have been requested to train drivers by any trucking company; misrepresenting, in any manner, respondents' connection or affiliation with the trucking industry or any member thereof.

6. (a) Representing, directly or by implication, that respondents operate a training school or facility for prospective truck drivers.

(b) Representing, directly or by implication, that enrollees in respondents' course in truck driver training will be trained on the best and most up-to-date truck driver training equipment available; misrepresenting, in any manner, the quality or nature of truck driver training equipment available for enrollees' training.

7. (a) Representing, directly or by implication, that persons completing respondents' course in truck driver training will thereby be qualified for employment as local or over-the-road truck drivers without further training or experience; misrepresenting, in any manner, the con-

tent, completeness or effect of any of respondents' courses.

(b) Failing to disclose, in writing, clearly and conspicuously, to each prospective purchaser of respondents' courses of study and instruction before said prospective purchasers have paid any money or fee to respondents that respondents cannot guarantee or assure employment to graduates of their courses of study and instruction; and that further training and experience may be required before a graduate of respondents' courses of study and instruction will be regarded as fully trained in the occupation for which respondents' training has been offered.

8. Representing, directly or by implication, that enrollees in respondents' course in truck driver training are required to post a bond or pay an insurance fee; misrepresenting, in any manner, the nature or purpose of any fee which must be paid by enrollees in respondents' courses.

9. (a) Representing, directly or by implication, that the balance of the cost of respondents' course remaining after the initial or registration fee has been paid can be deferred until after the student has completed the course and obtained employment as a truck driver;

(b) Representing, directly or by implication, that respondents will handle or arrange the financing of any portion of the cost of respondents' course;

(c) Misrepresenting, in any manner, the terms or conditions under which payment may be made for respondents' courses.

10. (a) Failing to notify, in writing, each purchaser of respondents' courses of study and instruction, before said purchaser makes any payment to respondents, that said purchaser has a right to request a refund at any time prior to his beginning of the resident training portion of respondents' courses of study and instruction.

(b) Failing to refund to each purchaser of respondents' courses of study and instruction, upon such purchaser's written request prior to said purchaser's attendance at respondents' resident training portion of respondents' courses of study and instruction, said pur-

chaser's initial or registration fee and all of any other fee paid to respondents. Said refund must be made within thirty (30) days from the date of said purchaser's written request for refund.

11. Representing, directly or by implication, that respondents' placement service will guarantee or assure the placement of graduates in jobs for which respondents' courses are represented to train them, or will guarantee or assure the placement of graduates in such jobs in the geographical area of their choice; misrepresenting, in any manner, respondents' ability or facilities for assisting graduates of their courses in obtaining employment.

It is further ordered, That respondents shall deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in selling respondents' courses of study and instruction and secure from each such salesman or other person a signed statement acknowledging receipt of said order.

It is further ordered, That each respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in any of the corporate respondents, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of a subsidiary or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondents Tom Johnson and J. C. Triplett, for a period of three (3) years, commencing sixty (60) days after this order becomes final, each shall notify the Commission annually of the name and address of each corporation, partnership, or other business entity, engaged in the advertising, offering for sale, sale or distribution of courses of study in truck driving or any other subject, trade or vocation, in which said respondents are directors, stockholders, officers, employees or maintain any other interest.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail

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FEDERAL TRADE COMMISSION DECISIONS

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