

(60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form of their compliance with this order.

IN THE MATTER OF

M.T.I. BUSINESS SCHOOLS OF SACRAMENTO, INC., ET AL.

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

Docket C-2500. Complaint, Mar. 20, 1974—Decision, Mar. 20, 1974

Consent order requiring a Sacramento, Calif., business school, among other things to cease misrepresenting the opportunities available to individuals trained in particular job fields such as cashier to checkstand operations, data processing or computer programming; misrepresenting the salaries available in such fields; and failing to maintain accurate records to substantiate such claims.

Appearances

For the Commission: *Jeffrey A. Klurfeld.*

For the respondents: *Pro se.*

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 M.T.I. Business Schools of Sacramento, Inc., a corporation and Arnold Zimmerman, individually and as an officer of said corporation, hereinafter sometimes 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 M.T.I. Business Schools of Sacramento, Inc., hereinafter sometimes referred to as "MIT," is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 2731 Capitol Avenue, Sacramento, Calif. Respondent MTI sometimes transacts business under the trade names "M.T.I. Business College" or "M.T.I. Western Business College."

Respondent Arnold Zimmerman is president of the corporate respon-

dent. He formulates, directs and controls the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the formulation, development, offering for sale, sale and conducting of courses of instruction intended to prepare graduates thereof for employment in positions involving the commercial application of data processing, including computer programming and computer operations; for employment in positions involving the commercial application of typing, transcription and shorthand skills, and for employment in the following specific positions:

medical receptionist	"career" secretary
general receptionist	legal secretary
teletype operator	checkstand operator
switchboard operator	cashier
bookkeeper/accountant	

Respondents' volume of business in said courses of instruction has been, and is, substantial.

Respondents conduct their business of offering for sale, sale and conducting of courses of instruction through a resident training facility. Through said resident training facility, respondents place into operation and implement a sales program whereby members of the general public by means of advertisements placed in broadcast and printed media of general circulation, and by means of brochures, pamphlets and other promotional literature disseminated through the United States mails or by other means, and by means of statements, representations, acts and practices as hereinafter set forth, are induced to sign contracts or enrollment agreements for a course of resident training of a stated length of time and for a stated tuition cost.

PAR. 3. In the course and conduct of their aforesaid business, and to induce the purchase of their courses of instruction by members of the general public, respondents promote their courses of instruction by advertising in newspapers of general circulation which are distributed through the United States mails and/or across state lines, and over television stations whose signals are transmitted across state lines. In response to inquiries from said advertisements, respondents disseminate to prospective students promotional literature through the United States mails and/or across state lines. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In conjunction with said advertising, respondents have made

certain statements and representations respecting the large and growing demand for graduates of respondents' courses, the ease with which respondents' graduates are placed in positions for which they are trained, the types of positions and salaries attained by graduates of respondents' courses, and projections of occupational demand and the future growth of employment in fields for which respondents offer training.

Typical of the statements and representations in said advertisements, but not all inclusive thereof, are the following:

1. Cashier-Checkstand Operator Courses

Grocery checker, CASHIER-STOCKMAN, EARN BIG \$\$\$.

[newspaper classified advertisement]

* * * * *

As a skilled, MTI graduate, your future will be assured in this ever-growing field.

* * * * *

The knowledge and skills you gain in the field of self service checking are much in demand to fill an important and challenging position in today's society.

* * * * *

MTI offers a thorough and intensive schedule of studies designed to help you * * * to help you secure your place in a constantly growing employment market * * * to help you earn good money right away * * * and to help you plan for your future NOW!

[From brochure entitled "SELF-SERVICE CHECKER-CASHIER STOCKMEN."]

2. Computer Programming and Data Processing Courses

a. Job Availability Claims

Where the jobs are

* * * * *

Right now there are over 100,000 good high-paying jobs going begging in the data processing field for lack of trained men and women to fill them.

* * * * *

If you meet our qualifications, we'll train you to step right into one of these 100,000 good jobs.

* * * * *

With your whole future riding on it, you owe it to yourself to consider training for a career in the booming data processing industry.

[From "Do you want to work with your hands or with your head?" brochure about Computer Programming and Data Processing courses.]

b. Income Potential Claims

How would you like to start at \$7,000 a year and be up to \$14,000 just a few years from now?

[From "Do you want to work with your hands or with your head?" brochure about Computer Programming and Data Processing courses.]

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning, but not expressly set out herein, respondents have represented, directly or by implication, that:

1. There is a reasonable basis from which to conclude that there is now or will be an urgent need or demand for trained persons in the fields of cashier and checkstand operations which respondents' training is designed to meet.

2. (a) There is a reasonable basis from which to conclude that there is now or will be an urgent need or demand for trained persons in the fields of data processing and computer programming which respondents' training is designed to meet.

- (b) There is a reasonable basis from which to conclude that a substantial number or percentage of graduates of respondents' courses of instruction in data processing and computer programming earn an entry-level salary in excess of \$7,000 per year, and a salary of \$14,000 per year several years thereafter.

PAR. 6. In truth and in fact:

1. Respondents had no reasonable basis from which to conclude that there is now or will be an urgent need or demand for trained persons in the field of cashier and checkstand operations which respondents' training is designed to meet. The only reasonable basis for such claims would be competent and reliable statistical evidence obtained prior to the making of such statements.

2. (a) Respondents had no reasonable basis from which to conclude that there is now or will be an urgent need or demand for trained persons in the fields of data processing and computer programming which respondents' training is designed to meet. The only reasonable basis for such claims would be competent and reliable statistical evidence obtained prior to the making of such statements.

- (b) Respondents had no reasonable basis from which to conclude that a substantial number or percentage of graduates of respondents' courses of instruction in data processing and computer programming earn an entry level salary in excess of \$7,000 per year, or a salary of \$14,000 per year, at the time the representations were made. The only reasonable basis for such claims would be competent and reliable statistical evidence obtained prior to the making of such statements.

Therefore, respondents' statements and representations, as set forth herein were, and are, false, misleading or deceptive acts or practices.

PAR. 7. Through the use of the aforesaid advertisements and otherwise, respondents have represented, directly and by implication, that

there is or will be an urgent need or demand for trained people in the fields of cashier and checkstand operations which respondents' training is designed to meet. There existed at the time of the said representations no reasonable basis in the form of competent and reliable statistical evidence, which was, and is now, adequate to support representations pertaining to the urgent need or demand for graduates of respondents' courses in the fields of cashier and checkstand operations. Therefore, the aforesaid acts and practices were, and are, deceptive or unfair acts or practices.

PAR. 8. Through the use of the aforesaid advertisements and otherwise, respondents have represented, directly and by implication, that there is or will be an urgent need or demand for trained people in the fields of computer programming and data processing which respondents' training is designed to meet; that a substantial number or percentage of graduates of respondents' courses of instruction earn an entry-level salary in excess of \$7,000 per year or a salary of \$14,000 per year in a few years. There existed at the time of the said representations no reasonable basis, in the form of competent and reliable statistical evidence, which was, and is now, adequate to support representations pertaining to the urgent need or demand for graduates of respondents' courses in the fields of computer programming and data processing, or to the salaries such graduates would receive. Therefore, the aforesaid acts and practices were, and are, deceptive or unfair acts or practices.

PAR. 9. In the course and conduct of their business, and at all times mentioned herein, respondents have been, and now are in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of courses of instruction covering the same or similar subjects.

PAR. 10. The use by respondents of the aforesaid false, misleading, unfair or deceptive statements, representations, acts 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 respondents' courses 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 or deceptive acts or 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 San Francisco 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 has 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, 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 M.T.I. Business Schools of Sacramento, Inc., hereinafter sometimes referred to as "MTI," is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 2731 Capitol Avenue, Sacramento, Calif.

Respondent Arnold Zimmerman is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his principal office and place of business is located at the above-stated address.

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 respondent M.T.I. Business Schools of Sacramento, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, employees and independent contractors, directly or through any corporation, subsidiary, division, franchisee or other device, and respondent Arnold Zimmerman, individually and as an officer of said corporate respondent, in connection with the creating,

advertising, promoting, offering for sale, sale or conducting of courses of study, training or instruction in any field in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, orally, in writing or in any other manner, directly or by implication, that:

a. There is an urgent need or demand, or a need or demand of any size, proportion or magnitude, for trained people in the fields of cashier or checkstand operations, data processing or computer programming, or otherwise representing, orally or in writing, that opportunities of any size, figure or number, are available to such persons, or to any person completing any of the courses offered by the respondents in the fields of cashier or checkstand operations, data processing or computer programming, or any other course in any field, unless respondents in each and every instance have in good faith conducted or otherwise secured a statistically valid survey which establishes the validity of any such representation at all times when, and in all locations with respect to which, the representation is made.

b. Any amount of salary or other remuneration will or may be earned by any person completing any course offered by the respondents, unless the respondents in each and every instance have in good faith conducted or otherwise secured a statistically valid survey which establishes the validity of any such claim at all times when, and in all locations with respect to which, the representation is made.

2. Failing to keep accurate records which may be inspected by Commission staff members upon reasonable notice:

a. Which disclose the facts upon which any claims or other representations of the type described in Paragraph 1 of this order are based; and

b. From which the validity of claims, or other representations of the type described in Paragraph 1 of this order can be determined.

It is further ordered, That the 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 30 days prior to any proposed change in the corporate respondent 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 corporation which may affect compliance obligations arising out of the order.

Complaint

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It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

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 the manner and form in which they have complied with this order.