

Consent order requiring a Milwaukee, Wis., resident/correspondence school, among other things to cease using deceptive means to sell its correspondence-resident instruction courses and to recruit franchised distributors; and to cease misrepresenting that the school's diplomas are equivalent to degrees from accredited colleges and that course credits are transferrable. Further, respondent is required to give enrollees a three-day cooling-off period in which to cancel their contracts and receive full refunds of all monies paid and to set up a restitution procedure to be triggered by a successful civil penalty action in which the firm has been shown to have committed designated violations of the order.

Appearances

For the Commission: *James S. Teborek.*

For the respondent: *William H. Alverson, Godfrey and Kahn, Milwaukee, Wis.*

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 Career Academy, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Career Academy, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 611 East Wells Street, in the city of Milwaukee, State of Wisconsin.

PAR. 2. Respondent is now and for some time last past has been engaged in the advertising, offering for sale and sale to the public of resident and correspondence courses of instruction in a variety of subjects, and for some time last past has been engaged in the advertising, offering for sale and sale of franchised regional directorships and area directorships for the selling of such courses to the public. Among and including, but not necessarily all inclusive of said courses of instruction, are those designated "Famous Broadcasters," "Lewis Hotel-Motel School" and "Investment Operations."

PAR. 3. In the course and conduct of its business, as aforesaid, respondent now causes, and for some time last past has caused, the home study portions of said courses to be sent from its place of business in the State of Wisconsin to purchasers thereof located in various other States of the United States. Also in the course and conduct of its business, respondent now causes and for some time last past has caused persons selling said courses to visit members of the general public located in various states other than the State of Wisconsin, for the purpose of soliciting sales of said courses of instruction. In the course of the solicitation and sale of said franchises and courses of instruction, enrollment contracts, checks, and other commercial instruments have been and are transmitted through the United States mails and by other means to respondent's place of business in the State of Wisconsin from various other

states. Respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in said franchises and courses of instruction in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of its business, and at all times mentioned herein, the respondent has been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of franchises and courses of instruction of the same general kind as those sold by respondent.

PAR. 5. In the course and conduct of its business, respondent has operated a sales plan to market its courses of instruction by enfranchising persons to sell such courses under "Regional Director Agreements" purporting to assign a particular territory in which the franchisee could sell one or more of the aforesaid courses of instruction to members of the public.

During the course of its presentation to prospective franchisees, various promotional materials were displayed in conjunction with oral representations respecting the aforesaid courses of instruction, the earnings and profits to be realized by selling such courses, the training and business assistance to be given by respondent to said franchisees, and the leads as to prospective students which would be furnished to said prospective franchisees by respondent.

Induced by respondent or its representatives to enter into such agreements, many of said franchisees signed notes for substantial sums of money as an initial downpayment, and agreed to pay the balance over an extended period.

Typical and illustrative, but not all inclusive, of the statements made by respondent or its representatives to said prospective franchisees, are the following:

Opportunity of a lifetime.

A business opportunity that has been planned, programmed and proven to have high profit potential.

Never before has there been such an overwhelming demand for occupational education.

Our own tremendous growth has created a limited number of openings which can be highly lucrative for new Regional Directors.

* * * once selected, a new Regional Director will be fully supported, backed by and supplied with the techniques, materials and services that only the vast resources of a company the size and stature of Career Academy, Inc. can provide.

Sound advice and guidance available through the Career Academy, Inc. management team assures you of steady growth.

You need only work hand in hand with Career Academy, Inc. to build an effective sales organization.

Providing Regional Directors and their representatives with inquiries from qualified, prospective students is a vital part of our business.

PAR. 6. By and through the use of the statements set forth in Paragraph Five hereof, and others, including oral statements, similar thereto but not specifically set out herein, respondent has represented, directly or by implication, that purchasers of said franchises for the sale of said courses of instruction would receive:

(a) advice and assistance from respondent for successfully maintaining and operating their business

(b) a substantial number of leads from respondent as to prospective and qualified purchasers of said courses of instruction

(c) a substantial income from the operation of a profitable business.

PAR. 7. In truth and in fact, in a substantial number of instances, purchasers of said franchises did not receive:

(a) advice or assistance from respondent for successfully maintaining and operating their business

(b) a substantial number of leads from respondent as to prospective and qualified purchasers of said courses of instruction

(c) a substantial income from the operation of a profitable business.

Therefore, respondent's statements and representations as set forth in Paragraphs Five and Six hereof, were, and are, unfair, false, misleading or deceptive acts or practices.

PAR. 8. In the course and conduct of its business as aforesaid, and for the purpose of enrolling prospective students and thereby promoting the sale of the aforesaid "Famous Broadcasters," "Lewis Hotel-Motel School," "Investment Operations" and various other courses of instruction, respondent makes numerous statements through advertisements inserted and published in newspapers and periodicals having general circulation throughout the United States; in pamphlets, leaflets, circulars, form letters, cards, printed contracts and other media distributed through the United States mail; through printed material including interview scripts furnished to franchised sales representatives for use in making sales to prospective students; through oral representations similar thereto but not specifically set forth herein made by said representatives; on radio and television, and by other means and media, with respect to the nature of such courses of instruction and the advantages and benefits which the enrollees therein will receive from completion of said courses. Typical and illustrative of the statements, but not all inclusive thereof, are the following:

* * * The coveted Certificate of Proficiency which is awarded to the Career Academy graduate is the key that can open doors to the life of the professional broadcaster—a life of prestige, respect, travel and financial security! * * *

* * * Whether you're in your late teens or early forties, you could step into one of the many important and well-paying positions in the booming field of broadcasting * * *

*** At this time next year, you can be a radio-TV personality ***

*** The Academy is constantly receiving requests for graduates. To satisfy these requests and the needs of its graduates the Academy operates a sophisticated placement department ***

*** Our success in helping place our graduates is due to a number of factors ***

*** Radio-TV stations everywhere need both men and women ***

*** Screening all of those who apply for admission to Career Academy must be a very time-consuming and costly procedure. Why do you invest all of this in each and every applicant ***?

*** the network and local studios at our school are limited to 15 students each and naturally they do fill in advance ***

*** The Academy's instructors have a unique ability to communicate—to teach you everything *** They'll work closely with you giving you their best in personal guidance and encouragement ***

*** The Academy will provide you with opportunities to secure a part-time job that will not interfere with your training ***

*** The Housing Director at each Resident school approves and supervises housing for out-of-town students, seeing that they have a comfortable and pleasant "home away from home" ***

*** The world famous Lewis *** School can qualify you for the position of your choice
 *** Thousands of today's successful hotel/motel owners and executives got their training this short cut Lewis way***

*** Imagine living in your favorite resort area *** enjoying your favorite sports *** and being well paid for the work you enjoy! ***

*** Where are jobs like these? In the resort industry for Hotel Managers *** Innkeepers *** executives of every kind ***

*** You can qualify for hundreds of the most glamorous well paid opportunities waiting to be filled everywhere as an eagerly sought after graduate of the Lewis *** School ***

A Lewis diploma with the help of our nationwide placement assistance will open many doors for you ***

*** Our directors have to be very careful and very selective in the type of person they accept for training ***

*** Prepare for a high paying position anywhere in the country***

*** we can accept only a limited number of students from each section of the country every month ***

*** you'll find that classes are kept small, so you can be given as much individual attention as you need ***

*** In just four months you can enjoy a good income, prestige position as an investment operations specialist. That's all it takes ***

*** good jobs go begging ***

*** Career Academy is constantly receiving requests for its graduates. To satisfy these requests and the career goals of its students, the Academy operates an extensive placement department ***

*** This is the nation's only fully documented, nationally recognized course *** for a Staff Position in Operations ***

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*** This need is not limited to large cities. It extends to every community in the land, large and small, coast to coast and border to border where there are brokerage houses, banks, mutual fund organizations *** demand extends beyond the Continental U.S.***

*** Our success in helping to place graduates is due to—carefully selecting applicant for training ***

*** due to the limited classes, they do fill far in advance ***

*** There is a great deal of personalized supervision ***

PAR. 9. By and through the use of the statements set forth in Paragraph Eight, and others, including oral statements, similar thereto but not specifically set forth herein, respondent has represented directly or indirectly:

a) That there was or is now a reasonable basis from which to conclude the existence of an urgent need or demand for many additional trained people in the subject fields of its said courses.

b) That enrollees in its said courses of instruction:

1) Will be required to qualify under highly selective procedures, and that only limited numbers will be accepted for enrollment.

2) Will have instructors available for consultation and individualized instruction and to observe their performance throughout their training and tests.

3) Will be provided all of the necessary instruction and experience to qualify them for a high level position in the field for which they train.

4) Will be provided suitable housing and leads to suitable part-time employment, if needed, when they become resident students.

5) Will be able, through respondent's placement service, to secure employment in the field for which they train, and at significantly higher salaries than would be earned without said training.

PAR. 10. In truth and in fact:

a) Respondent had no reasonable basis from which to conclude there was or is now an urgent need or demand for many additional trained people in the subject fields of its said courses.

b) Many if not most enrollees in said courses:

1) Were not required to qualify under highly selective procedures, nor were only limited numbers accepted for enrollment. To the contrary, respondent generally enrolled applicants who were high school graduates, furnished two recommendations, and who agreed to pay the required fees.

2) Did not have instructors available to them for consultation or individualized instruction, nor to observe their performance throughout their training and testing. To the contrary, respondent furnished group classroom instruction and furthermore, instructors often failed to at-

tend classes or were otherwise unobservant of or unavailable to enrollees.

3) Were not provided with the necessary instruction nor experience to qualify for a high level position in the field for which they trained. To the contrary, said positions generally required additional and different training and experience.

4) Were provided neither suitable housing nor leads to suitable part-time employment, if needed, when they became resident students. To the contrary, such housing as was made available was often of poor quality or at distant or inconvenient locations, and few, if any, enrollees were able to secure suitable part-time employment through leads furnished by respondent.

5) Were unable, through respondent's placement service, to secure employment in the field for which they trained, and few, if any, who did secure such employment, received a significantly higher salary than they would have earned without such training.

Therefore, respondent's statements and representations, as set forth in Paragraphs Eight and Nine hereof were, and are unfair, false, misleading or deceptive acts or practices.

PAR. 11. In the further course and conduct of its business of selling or inducing the sale of said courses of instruction, as aforesaid, and by means of the statements and representations set out in Paragraphs Eight through Ten hereof, in conjunction with oral statements of its sales representatives, respondent made the following additional statements and representations, directly or indirectly, to prospective enrollees in said courses of instruction:

a. A diploma or certificate of proficiency or completion from respondent or its schools is the equivalent of a degree from an accredited college or university, and that enrollees can transfer credits from such courses toward graduation from an accredited college or university.

b. The total cost of tuition plus books and laboratory or studio fees, as listed on the enrollment contract, are all the costs which enrollees will have to bear.

c. Prospective enrollees must enroll at the time of the sales representative's call or they will lose all opportunity for acceptance.

PAR. 12. In truth and in fact:

a. Enrollees who receive a diploma or certificate of proficiency or completion from respondent or its schools do not have the equivalent of a degree from an accredited college or university, nor can they transfer credit from such courses to an accredited college or university.

b. The total cost of tuition plus books and laboratory or studio fees, as listed in the enrollment contract, are not all the costs which enrollees

have to bear. To the contrary, additional items at additional costs to enrollees are ordinarily required.

c. Prospective enrollees need not necessarily enroll at the time of the sales representative's call, for the reason that in many instances the representatives call back if there appears to be the prospect of a sale.

Therefore, respondent's statements and representations, as set forth in Paragraph Eleven hereof were, and are unfair, false, misleading or deceptive acts or practices.

PAR. 13. In the further course and conduct of its business of selling or inducing the sale of said courses of instruction, and by means of and in conjunction with the statements and representations set out in Paragraphs Eight through Twelve hereof, respondent failed to disclose the following material facts:

- a. the recent percentage of graduates of such courses who obtained employment in the field for which they took training
- b. the employers that hired such graduates, and
- c. the initial salary said graduates received.

Knowledge of such facts would indicate the possibility of securing future employment upon graduation and the nature of such employment. Thus, respondent has failed to disclose material facts which, if known to certain prospective enrollees, would be likely to affect their consideration of whether or not to purchase such courses of instruction. Therefore, respondent's said statements and representations, and its failure to disclose said material facts, were and are unfair, false, misleading or deceptive acts or practices.

PAR. 14. In the further course and conduct of its business of selling or inducing the sale of said courses of instruction, and by means of and in conjunction with the statements and representations set out in Paragraphs Eight through Twelve hereof, respondent has represented, directly or indirectly, that there was an urgent need or demand for additional trained people in the fields which are the subject of the aforesaid courses. At the time of said statements and representations, respondent did not have competent and reliable statistical or other evidence or other reasonable basis which was, and is now, adequate to substantiate said statements and representations. Therefore, respondent's said statements and representations were and are unfair, false, misleading or deceptive acts or practices.

PAR. 15. (a) Respondent has been and is now using the aforesaid unfair, false, misleading or deceptive acts and practices, which a reasonably prudent person should have known, under all of the facts and circumstances, were unfair, false, misleading or deceptive, to induce persons to pay or to contract to pay over to it substantial sums of money

to purchase or pay for courses of instruction which, to such purchasers in connection with their future employment and careers was, and is, virtually worthless. Respondent has received the said sums and has failed to offer refunds and has failed to refund such sums to or to rescind such contractual obligations of substantial numbers of enrollees and participants in such courses who were unable to secure employment in the positions and fields for which they had been purportedly trained by respondent.

The use by respondent of the aforesaid acts and practices, its continued retention of said sums and its continued failure to rescind such contractual obligations of its customers, as aforesaid, are unfair acts or practices.

(b) In the alternative and separate from Paragraph Fifteen (a) herein, respondent, who is in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of courses of vocational instruction, has been and is now using, as aforesaid, false, misleading, deceptive or unfair acts or practices, to induce persons to pay over to respondent substantial sums of money to purchase courses of instruction.

The effect of using the aforesaid acts and practices to secure substantial sums of money is or may be to substantially hinder, lessen, restrain, or prevent competition between respondent and the aforesaid competitors.

Therefore, the said acts and practices constitute an unfair method of competition in violation of Section 5 of the Federal Trade Commission Act.

PAR. 16. By and through the use of the aforesaid statements, representations, acts and practices, respondent has placed in the hands of others the means and instrumentalities by and through which they may mislead and deceive the public in the manner and as to the things hereinabove alleged.

PAR. 17. In the course and conduct of its business and at all times mentioned herein, the respondent has been and is now 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. 18. The use by respondent of the unfair, false, misleading and deceptive statements, representations, acts and practices and its failure to disclose material facts as aforesaid, has had, and now has the capacity and tendency to mislead and deceive many members of the purchasing public into the erroneous and mistaken belief that said statements and representations were, and are, true and complete and, to a substantial

number thereof, into the purchase of franchises for the sale of said courses of instruction, and to other substantial numbers thereof, into the purchase of respondent's courses by reason of said erroneous and mistaken belief.

PAR. 19. The aforesaid acts and practices of respondent, as herein alleged, were and are, all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair methods of competition in commerce, and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereto with violation of the Federal Trade Commission Act, and the respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

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

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) 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 in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Career Academy, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 611 East Wells Street, city of Milwaukee, State of Wisconsin.

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

ORDER

I

It is ordered, That respondent Career Academy, Inc., a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, solicitation, offering for sale, sale or distribution of courses of training or instruction, or of franchises or distributorships for the sale of courses of training or instruction, or of any other product or service, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, orally, visually, in writing or in any other manner, directly or indirectly, unless respondent maintains records showing the factual, documented, verifiable basis for such claims, as required by Paragraph 4 of this order, that purchasers of franchises or distributorships, or others engaged in the sale or distribution of any product or service:

(a) Will receive advice or assistance for maintaining or operating any business.

(b) Will be furnished leads as to prospective or qualified purchasers of said courses or products.

(c) Can earn a substantial income, or a specified or approximate amount of income, from the operation of any business, or that any such business will or can be operated at a profit; or making any statement or representation as to past, present or prospective income, earnings or profits.

2. Representing, orally, visually, in writing or in any other manner, directly or indirectly, unless respondent maintains records showing the factual, documented, verifiable basis for such claims, as required by Paragraph 4 of this order, that prospective enrollees in or purchasers of any course of training or instruction:

(a) Will be required to qualify under highly selective or other procedures, or that enrollment is limited.

(b) Will have instructors available for consultation, or individualized instruction, or to observe their performance in training or tests.

(c) Will be provided the necessary instruction or experience to qualify for a particular position or positions in the given field for which the student enrolled.

(d) Will be furnished suitable housing, or leads to suitable employment during resident training.

(c) Will secure employment in the fields for which they train, or at a higher salary than they would earn without such training or instruction, or that they will receive assistance in securing such employment.

(f) Will not have to bear any expense or cost charged by respondent other than those set out on an enrollment contract or otherwise stated.

(g) Must enroll at the time of the sales representative's call, or that they will have no other opportunity to enroll.

3. Representing, orally, visually, in writing or in any other manner, directly or indirectly, unless respondent maintains records showing the factual, documented, verifiable basis for such claims, as required by Paragraph 4 of this order, that:

(a) There is an urgent need or demand, or a need or demand of any size, proportion or magnitude, for trained people in any field for which training or instruction is being offered or sold, or otherwise representing that opportunities for employment, or opportunities of any size, figure or number, are available to any person completing any such course.

(b) Enrollees in or graduates of any school or of any course of training or instruction have been placed in, or have secured any position in the field for which they were trained, or that any person may secure employment or receive assistance in any position or field. *Provided further, however,* That no representation shall be made as to placement efficacy unless, in immediate conjunction therewith and in a clear and conspicuous manner, there is disclosed the current and active placement data for such school, location or facility percentage rate at such school location or facility for the advertised course of instruction or training, computed in the manner set forth in Paragraph 6(b) (1) of this order.

(c) Any amount of salary or other remuneration will or may be earned by any person completing any course of training or instruction.

4. Making, or furnishing the means and instrumentalities through or by means of which any person or firm may make any statement or representation prohibited by Paragraphs (1) through (3) inclusive of this order; *Unless*, respondent has a reasonable basis for each such statement or representation and maintains and upon reasonable notice, provides access to the Commission or its

representatives for purposes of inspection or copying, for a period of three years, full, complete and accurate records which will disclose:

(a) The time, frequency and duration of use or publication, and the content of each such statement or representation, and details as to the media or other means utilized in its dissemination or publication; and

(b) A factual, documented and verifiable basis for substantiation of each such statement or representation. *Provided further*, That with respect to any statement or representation as to:

(1) Past, present or prospective earnings, profits, or salaries, such substantiation includes a statistically valid survey or other appropriate substantiating material which establishes the reasonable basis for each such statement or representation.

(2) Efficacy of placement or employment, such substantiation includes a list of firms or employers which are currently hiring graduates of such courses in substantial numbers and in the positions for which such graduates have been trained, and the salary range of such graduates, determined in the manner set forth in Paragraph 6(b) of this order.

5. Representing, orally, visually, in writing, or in any other manner, directly or indirectly, that any diploma, certificate, or any other document or record issued or furnished upon completion of or in connection with any course of training or instruction, is or may be considered as the equivalent of a degree from any accredited college or university; that academic credits can be earned in connection with such courses, or that they can be transferred to, or will be recognized by any such accredited college or university.

6. Failing to deliver to each person who shall contract for the purchase of any course of training or instruction, at the time such person so contracts, a notice, in a form approved by the Commission, which shall disclose the following information and none other:

(a) The title "IMPORTANT INFORMATION" printed in bold face type across the top of the form.

(b) A paragraph reciting the following affirmative disclosures which shall be based upon information compiled not more than one year prior to the delivery of such notice;

(1) The placement data for graduates determined in the following manner:

Respondent shall, following the graduation of each student graduating during each six month period, commencing with the six month period ending on the last day of the month in which this order is finally accepted by the Commission, undertake to determine the following information with respect to each such graduate: (a) his employment status; (b) the name of his employer and position, if any; and (c) his salary. The disclosure shall indicate the total number of graduates of the course; the number of those who have indicated to respondent a desire for employment; the number of those desiring employment known by respondent to be employed; the number of those desiring employment known to be unemployed; and the number of those desiring employment whose employment status is not known.

Separate placement data shall be calculated for each course of instruction offered in each school location or facility during such six month period.

(2) a list of types of employers as indicated in responses to questionnaires sent pursuant to Subparagraph (1) above or otherwise within the actual knowledge of respondent which have hired the graduates referred to in Subparagraph (1) above in the positions for which such graduates were trained, and the percentage of employed graduates working for each type of employer.

(3) the salary range of the graduates referred to in Subparagraph (1) above. The "salary range" shall be the highest and lowest salary for full time employment indicated in responses to questionnaires sent pursuant to Subparagraph (1) above or otherwise within the actual knowledge of respondent with respect to such graduates.

Provided however, That this Subparagraph (b) shall be inapplicable until the first day of the seventh month following the month in which this order is finally accepted by the Commission.

(c) An explanation of the cancellation procedure provided in this order, namely, that any contract or other agreement may be cancelled for any reason within three business days after receipt by the customer, of this notice or any other cancellation

procedure provided by applicable state or local law more favorable to the customer.

(d) A detachable form or a form separate from the notice, which the person may use as a notice of cancellation, which indicates the proper address for accomplishing any such cancellation; or such other separate form as may be applicable under state or local law.

Provided, however, That Subparagraph (b) above shall be inapplicable for the first two years following respondent's sale or distribution of any course of training or instruction, or until two years following its operation of any school or facility in any city or county where it did not previously operate a school, and, in lieu of Subparagraph (b), the following statement shall be made:

All representations of potential employment or salaries are merely estimates. This course has not been sold (or this school has not been in operation) long enough to indicate what, if any, actual employment or salary may result upon graduation from this course (or school).

7. Contracting for any sale of any course of training or instruction in the form of a sales contract or other agreement which shall become binding prior to the end of the third business day after the date of receipt by the customer of the form of notice provided for in Paragraph 6 of this order. Upon cancellation of any said sales contract or other agreement within the period provided for herein, the respondent is obligated to refund, promptly to any person exercising the cancellation right, all monies paid or remitted up until the notice of cancellation, and to cancel and return to the obligor any note, or other instrument of indebtedness in connection with the contract.

II

It is further ordered, That:

1. Respondent herein deliver in person or by certified mail, a copy of this decision and order to each of its present and future franchisees, licensees, employees, salesmen, agents, independent contractors or to any other person who promotes, offers for sale, sells or distributes any course of instruction or training or any other product or service included in this order;

2. Respondent herein provides each person so described in Paragraph (1) above with a form returnable to the respondent clearly

stating his intention to be bound by and to conform his business practices to the requirements of this order; retains said statement during the period said person is so engaged; and makes said statement available to the Commission's staff for inspection and copying upon request;

3. Respondent herein informs each person so described in Paragraph (1) above that the respondent will not use or engage or will terminate the use or engagement of any such party, unless such party agrees to and does file notice with the respondent that he will be bound by the provisions contained in this order;

4. If such party as described in Paragraph (1) above will not agree to so file the notice set forth in Paragraph (2) above with the respondent and be bound by the provisions of the order, the respondent shall not use or engage or continue the use or engagement of, such party to promote, offer for sale, sell or distribute any course of instruction or training or any other product or service included in this order;

5. Respondent herein informs the persons described in Paragraph (1) above that the respondent is obligated by this order to discontinue dealing with or to terminate the use or engagement of persons who continue on their own the deceptive acts or practices prohibited by this order;

6. Respondent herein institutes a program of continuing surveillance adequate to reveal whether the business practices of each said person described in Paragraph (1) above conform to the requirements of this order;

7. Respondent herein discontinues dealing with or terminates the use or engagement of any person described in Paragraph (1) above, as revealed by the aforesaid program of surveillance, who continues on his own any act or practice prohibited by this order.

It is further ordered, That in the event the Federal Trade Commission shall successfully maintain a civil penalty action against respondent for violation of Sections 3(a), 3(b), 6(b) (1), or 6(b) (2), of this order, respondent shall provide restitution to its students in the following manner:

Respondent shall notify in writing, at their last known address, within thirty days after the date of the Order of the U.S. District Court awarding the Commission civil penalties, all students who enrolled in any of respondent's courses during the six (6) year period preceding the date of the U.S. District Court's Order, or such later period of time during which respondent has been shown to have violated Sections 3(a) or 3(b) of this order, or failed to make

the affirmative disclosures required by Paragraphs 6(b) (1), or 6(b) (2), of their right to present claims for restitution according to the following terms and conditions:

Students shall be informed that in order to be entitled to restitution and a cancellation of future monetary obligations to respondent, they must submit to respondent and the Federal Trade Commission an affidavit containing details of the following affirmations.

(a) That a misrepresentation was made to the student by respondent or any of its agents or representatives concerning the availability of jobs after completion of the course of instruction they took or placement assistance to be given in obtaining employment after completion of the course, and that the student relied on such misrepresentation or misrepresentations in enrolling in one of respondent's courses; or that respondent or any of its agents failed to disclose placement data or a list of types of employers to the student, as required by Paragraphs 6(b) (1) and 6(b) (2) of this order.

(b) That the student satisfactorily completed the course of instruction in which he or she enrolled.

(c) That in the case of a student who relied on the misrepresentation regarding the availability of jobs, or that in the case of a student who was not provided with the affirmative disclosures required by Paragraphs 6(b) (1) or 6(b) (2), said student attempted to procure employment in the field for which he took training from respondent and was unsuccessful in obtaining employment within six months after completion of his course.

That in the case of a student who relied on a misrepresentation regarding the offer of placement assistance by respondent said student sought placement from respondent's placement department and did not receive placement assistance as represented by respondent and did not secure a job within six months after completing the course.

Respondent shall make restitution to any student submitting a sworn affidavit complying with the provisions of Sections (a)-(c) of this paragraph within sixty (60) days of receipt of said affidavit, unless respondent, within sixty (60) days of receipt of said affidavit:

(1) Obtains a sworn affidavit, from a person with first-hand knowledge or based upon documentary or other legally admis-

sible evidence, which asserts facts controverting the material facts set forth in said student's affidavit, thereby placing in issue the student's right to restitution; and

(2) Informs the student: (a) that it denies the student's claim for restitution based upon such affidavit; (b) forwards a copy of such affidavit to the student; and (c) informs the student that he or she may, at his or her option, elect to have the matter referred to arbitration under the supervision of the American Arbitration Association pursuant to the rules set forth in Exhibit A attached hereto and forwards a copy of such rules to the student.

Respondent in all demands referred to arbitration shall carry the burden of proof to establish that the student seeking restitution is not entitled thereto.

It shall be a violation of this order for respondent to fail to provide timely restitution (1) to any student who submits to respondent a sworn affidavit which complies with Provisions (a)-(c) of this paragraph, which claim respondent does not deny pursuant to the procedures set forth in this paragraph within sixty (60) days after receipt thereof; or (2) to any student whose claim for restitution has been referred to arbitration and has been upheld by the arbitrator.

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 respondent 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.

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.

EXHIBIT A

SPECIAL ARBITRATION RULES

For Career Academy, Inc.—Federal Trade Commission—American Arbitration Association

1. INITIATION

1.1 By Claimant, after receipt of denial of claim by Career Academy.

(a) Career Academy will send a copy of these special rules with notice of denial.

1.2 By Career Academy, at any time after denial of a claim; provided however, that this provision shall not be construed so as to prevent recourse to the courts for the

determination of any claim against Career Academy which, without reference to the foregoing order, was or is actionable under applicable state or federal law.

1.3 Initiating party will send notices to American Arbitration Association, hereinafter referred to as "AAA", 230 West Monroe Street, Room 1030, Chicago, Illinois 60606, Attention: Regional Director, with a copy to other party.

1.4 If initiated by Claimant, notice will include a copy of Proof of Eligibility and Entitlement previously sent to Career Academy.

1.5 If initiated by Career Academy, notice will include copies of Claimant's Proof of Eligibility and Entitlement and Career Academy's notice of denial.

2. SELECTION OF ARBITRATOR:

2.1 One Arbitrator will be selected by AAA.

2.2 AAA will send name and biographical materials on proposed Arbitrator to both parties. If neither party objects (in writing to AAA with copy to other party) within five (5) days after receipt of nomination, the appointment shall be deemed final.

2.3 If either party objects to proposed Arbitrator, AAA will propose another Arbitrator, with the parties having an opportunity to object to his appointment, pursuant to the procedures set forth in paragraph 2.2, above.

2.4 Neither party need specify any grounds for objection to a proposed Arbitrator until that party shall have objected to three proposed Arbitrators, after which the objecting party must object for cause.

2.5 AAA will mail a copy of these special rules and the applicable provisions of the Federal Trade Commission's Decision and Order to the Arbitrator and notice of the Arbitrator's appointment to the parties.

3. MAIL SUBMISSION OF EVIDENCE:

3.1 Initial submission of evidence with copy to the opposing party shall be mailed to AAA, 230 West Monroe Street, Room 1030, Chicago, Illinois 60606, Attention: Regional Director, within 20 days after appointment of the Arbitrator. AAA will transmit all evidence received to the Arbitrator immediately upon expiration of the 20 day period.

(a) Claimant may submit such documents or affidavits, in addition to Proof of Eligibility and Entitlement, as he deems relevant.

(b) Career Academy will submit such documents or affidavits as it deems relevant.

(c) If Career Academy disputes the amount of tuition claimed to have been paid by the Claimant, it shall submit copies of its student ledger showing tuition payments received from the Claimant.

3.2 Reply or rebuttal evidence (documents or affidavits) may be submitted to AAA by either party (with copy to opposing party) within twenty (20) days after receipt of the opposing party's initial submission.

3.3 Photostatic copies of any documents be submitted in lieu of the original.

4. ORAL TESTIMONY:

4.1 In the event that the Arbitrator is unable to resolve a controverted claim for restitution submitted by mail pursuant to Paragraph 3, above, and he deems a personal appearance by the parties is essential to a determination of the matter, the Arbitrator may direct that the parties personally appear before him for oral examination at a place of his designation, at a time acceptable to both parties, within thirty (30) days after notice to both parties. The expenses of appearance, such as transportation, room and board, shall be borne by each party.

5. COSTS:

5.1 The administrative Fees of the AAA for each matter submitted hereunder,

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inclusive of the Arbitrator's fees, if any, shall be \$50.00. Such Fees shall be paid in advance and shared equally by both parties and the successful party's fees shall be assessed in the Arbitrator's Award against the unsuccessful party.

5.2 The Arbitrator's Award shall also assess the successful party's transcript costs pursuant to paragraph 4.1, above, if any, and other direct expenses incurred by the successful party in connection with any deposition taken pursuant thereto, against the unsuccessful party.

6. AWARD:

6.1 The Arbitrator's Award, including assessment of costs pursuant to paragraph 5, above, but not including any detailed findings of fact, or opinion, shall be mailed to both parties by AAA.

6.2 If the Arbitrator's Award has not been satisfied within thirty (30) days after mailing by the AAA, judgment on the Award may be entered by the successful party in any court of competent jurisdiction.

7. GENERAL:

7.1 Either party may, but need not, appear by counsel in proceedings hereunder. Counsel shall enter his appearance by written notice to the AAA and the opposing party (or counsel for the opposing party).

7.2 To the extent not inconsistent with these special rules, the Commercial Arbitration Rules of the AAA then in effect shall apply to any proceeding hereunder.

IN THE MATTER OF

FOREVER YOUNG, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECTIONS 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-2548. Complaint, Sept. 17, 1974—Decision, Sept. 17, 1974

Consent order requiring a Denver, Colo., seller and licensor of a medical process involving