

IN THE MATTER OF
MARALCO ENTERPRISES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND TRUTH IN LENDING
ACTS

Docket C-2711. Complaint, July 25, 1975—Decision, July 25, 1975

Consent order requiring four New York City corporations operating a computer programming school, among other things to cease misrepresenting the demand for its graduates, job opportunities, earnings, and using testimonials and endorsements unfairly; and violating the Truth in Lending Act in connection with the sale of its courses.

Appearances

For the Commission: *Alice Petizon and Matthew Gromet.*

For the respondents: *Robert L. Katzman, Blank & Katzman, New York City.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Truth in Lending Act and the implementing regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Maralco Enterprises, Inc., a corporation, New York School of Computer

¹ It is, therefore, unnecessary to decide whether the Commission has inherent power to review an interlocutory order of an administrative law judge upon the kind of showing of irreparable harm and clear abuse of discretion that might warrant the granting of extraordinary relief by a court of appeals from an interlocutory order entered by a district court.

Technology, Inc., a corporation, Education Beneficial, Inc., a corporation, Tuition Payments, Inc., a corporation, and Hyman Marcus, Bartholomew Colangeli, and Fred Rosenberg, individually and as officers of said corporations, hereinafter referred to as respondents, have violated the provisions of said Acts and implementing regulation, 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. Respondents Maralco Enterprises, Inc., New York School of Computer Technology, Inc., Education Beneficial, Inc., and Tuition Payments, Inc., are corporations organized, existing and doing business under and by virtue of the laws of the State of New York, with their principal office and place of business located at 200 W. 51st St., New York, N.Y.

Respondents Hyman Marcus, Bartholomew Colangeli, and Fred Rosenberg, are individuals and officers of the corporate respondents. They formulate, direct and control the policies, acts and practices of the corporations, including the acts and practices hereinafter set forth. Their business address is the same as that of the corporate respondents.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale and sale of courses of instruction in computer programming to the public.

COUNT I

Alleging violations of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One and Two hereof are incorporated by reference herein as if fully set forth verbatim.

PAR. 3. In the course and conduct of their business, and for the purpose of inducing prospective students to enroll in their courses of instruction, respondents engage in the advertising of said courses of instruction in newspapers of interstate circulation, and the sale of said courses to consumers located in various States of the United States. In the further course and conduct of their business, respondents also cause pamphlets, brochures, checks and other documents and communications pertaining to said courses to be transmitted by the United States mails and other means in commerce. 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 the course and conduct of their aforesaid business, and for the purpose of inducing prospective students to enroll in their courses of instruction, respondents have made statements, both specific and

implied, in advertising and promotional material, with respect to the ability, aptitude and training required to become a computer programmer or systems analyst, employment opportunities for graduates of the school, the nature and reliability of the trial period, pay levels for graduates of the school, and the method of instruction at the school. The following are typical and illustrative of the aforesaid statements and representations, but not all inclusive thereof:

- (a) This is the profession of the future, offering the highest opportunities and salaries.
- (b) A vital need exists for competent men and women to fill the personnel shortage created by the expanded use of computer equipment.
- (c) In Government and Industry trained programmers are in demand.
- (d) Individual instruction tailored to your ability.
- (e) Among the computers that you will study are included: IBM 1401 - IBM 1440 - IBM 360 - COBOL - BAL - RPG - Honeywell 200 NCR 315 - RCA Spectra 70 - UNIVAC 418.
- (f) Become a Computer Programmer and Systems Analyst.
- (g) The NYSOCT course is one of the fastest ways to success.
- (h) Trained personnel are in demand.
- (i) In order to find out for yourself if you are qualified and suited for this field, we offer you a Free Trial Period of one full week* * *you will see for yourself whether you like this work and whether you have the ability to do programming.
- (k) College degree not required.

In the course and conduct of their aforesaid business, and for the purpose of inducing prospective students to enroll in their courses of instruction, respondents have made statements, both specific and implied, directly to said prospective students in the oral sales presentations made by their sales persons and other representatives. The following are typical and illustrative of the aforesaid statements and representations, but not all inclusive thereof:

- (a) Respondents' graduates readily find employment as computer programmers.
- (b) Graduates of respondents' school who do not have a college degree can readily find employment as computer programmers.
- (c) A substantial number or percentage of the recent graduates of respondents' courses of instruction earn a salary in excess of \$150 per week.
- (d) In respondents' courses of instruction, students will be taught a significant number of occupationally useful programming languages.

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

1. The courses of instruction offered by respondents qualify graduates for employment in the field of data processing as computer programmers and systems analysts.
2. Requirements such as a college education are not necessary for

the placement of graduates of said courses in any position in the field of electronic data processing for which said students were trained.

3. There is a reasonable basis from which to conclude that there is now or will be a significant or substantial need or demand for trained people in the field of computer programming which said training is designed to meet.

4. Graduates of said courses of instruction are virtually assured of placement in positions for which they have been trained.

5. A substantial number or percentage of the recent graduates of said courses of instruction earn a salary in excess of \$150 per week.

6. In said courses of instruction, students will be taught a significant number of occupationally useful programming languages.

7. In their said courses of instruction, respondents provide individual instruction adapted to the needs and ability of each student.

8. The one week free trial period offered by respondents is for the purpose of allowing the prospective student to determine his qualifications and suitability for the field of computer programming.

PAR. 6. In truth and in fact:

1. Said courses of instruction do not qualify students for employment in the field of data processing as computer programmers or systems analysts.

2. In a substantial number of instances a college degree is required to secure a position, for which training was offered, in the field of electronic data processing.

3. Respondents had no reasonable basis from which to conclude that there is now or will be an urgent need or demand for trained people in the field of 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.

4. Respondents had no reasonable basis from which to conclude that graduates of their courses of instruction are virtually assured of placement in positions for which they have been trained.

5. Respondents had no reasonable basis from which to conclude that a substantial number or percentage of the recent graduates of said courses of instruction earn a salary in excess of \$150 per week.

6. Respondents do not teach a significant number of occupationally useful programming languages. In fact, a substantial amount of said courses consist of instruction in obsolete programming languages of no occupational usefulness to graduates.

7. Respondents do not provide individual instruction adapted to the needs of each student.

8. The one week free trial period offered by respondents is not for

the purpose of allowing the prospective student to determine his qualifications and suitability for the field of computer programming, but instead serves as an extension of the sales presentation given by respondents. During this trial period respondents' instructors attempt to persuade prospective students to enroll by repeating to said prospective students representations similar to those set forth in Paragraphs Four and Five above.

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

PAR. 7. In the further course and conduct of their business, and for the purpose of inducing prospective students to enroll in their said courses of instruction, respondents have posted in their place of business photographs of graduates of their school who have succeeded in securing employment as computer programmers, along with their names, addresses, places of employment and starting salaries. Such photographs and accompanying information have been shown to prospective students during the course of the initial sales presentation.

Said photographs and accompanying information have also been included in direct mail flyers sent by respondents to prospective students. On these flyers is the following statement: "The pictures in this brochure are of recent graduates of our school.* * *"

PAR. 8. By and through the use of the aforesaid photographs and accompanying information, and oral statements made directly to prospective students, respondents have represented that they have had significant success within the recent past in placing their graduates in positions as programmers, and at salaries in the range indicated in said photographs.

PAR. 9. In truth and in fact:

Respondents have, in the recent past, been unable to place a significant number of their students in positions as programmers. A significant number of the photographs used in the aforesaid advertising material are of persons who graduated from said courses of instruction in 1966, 1967 and 1968.

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

PAR. 10. In the course and conduct of their aforesaid business, and for the purpose of inducing prospective students to enroll in their courses of instruction, respondents have represented directly to said prospective students in the oral sales presentations made by their sales persons and other representatives, that said courses of instruction will serve as the equivalent of practical programming experience, and that,

therefore, graduates of said courses can represent to prospective employers that they are qualified and experienced programmers, thus allowing them to begin work with the status of experienced programmers and not as programmer trainees, or permitting them to obtain jobs which require programming experience.

PAR. 11. In truth and in fact:

Said courses of instruction do not serve as the equivalent of practical programming experience, and graduates of said courses cannot expect to begin work with the status of experienced programmers.

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

PAR. 12. In the further course and conduct of their business, respondents have attempted to place and have placed graduates of said courses in positions as computer programmers by suggesting to these graduates that they present resumes containing false information concerning job experience to prospective employers. Respondents have provided graduates with such resumes and have aided in their preparation. Respondents advise their graduates to include in the aforesaid resumes that they have, in the past, worked as computer programmers for substantial periods of time for fictitious companies. Respondents suggest further that a telephone number be given for the firm listed, that number being the telephone number of respondents' place of business. In the event that a prospective employer attempts to verify the aforesaid information, graduates are informed that such verification will be provided by respondents. In truth and in fact, much of the information suggested by respondents is false.

The acts and practices as set forth in Paragraph Twelve hereof were, and are, false, misleading, deceptive and unfair.

PAR. 13. Respondents offered for sale courses of instruction intended to prepare graduates thereof for entry-level employment as computer operators, computer programmers or computer technicians without disclosing in advertising or through their sales representatives: (1) the percentage of recent graduates of each school for each course offered, that were able to obtain employment in the positions for which they were trained; (2) the employers that hired any such recent graduates for each course offered; (3) the initial salary any such recent graduates received for each course offered; and (4) the percentage of recent enrollees of each school for each course offered that have failed to complete their course of instruction. Knowledge of such facts would be an indication of the probability of graduating from respondents' courses and would indicate the possibility of securing future employment upon graduating and the nature of such employment. Thus,

respondents have failed to disclose material facts, which if known to a consumer would be likely to affect his or her consideration of whether or not to purchase such courses of instruction. Therefore, the aforesaid acts and practices were, and are, false, misleading, deceptive or unfair acts or practices.

PAR. 14. 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 covering the same or similar subjects.

PAR. 15. The use by respondents of the aforesaid false, misleading, unfair or deceptive statements, representations, acts and practices, and their failure to disclose material facts, as aforesaid, have had, and now have, 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 complete, and to induce a substantial number thereof to purchase respondents' courses by reason of said erroneous and mistaken belief.

PAR. 16. 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.

COUNT II

Alleging violations of the Truth in Lending Act, and the implementing regulation promulgated thereunder, and of the Federal Trade Commission Act, the allegations of Paragraphs One and Two hereof are incorporated by reference herein as if fully set forth verbatim.

PAR. 17. In the ordinary course of their business as aforesaid, respondents regularly extend consumer credit and arrange for the extension of consumer credit, as "consumer credit" and "arrange for the extension of consumer credit" are defined in Section 226.2(f)(k) of Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System.

PAR. 18. Subsequent to July 1, 1969, in the ordinary course of their business as aforesaid, and in connection with their credit sales, as "credit sale" is defined in Section 226.2(n) of Regulation Z, respondents have caused and are causing their customers to enter into contracts, termed by them as "enrollment agreements," for the sale of respondents' services. On these contracts, respondents specify a particular amount as the cost of their service, which they term "tuition." The full

amount of this tuition is, however, charged only to those who elect to pay on an installment basis. Students who pay the entire amount on or before a specified date are given a discount from the tuition which in most cases equals 10 percent.

On these contracts, respondents provide certain consumer credit cost disclosures. Respondents do not provide any other consumer credit information.

PAR. 19. By and through the use of these contracts, and in connection with their credit sales, respondents:

1. Offer a reduction from the cash price to those who elect to meet their obligation on or before a specified date, and fail to disclose, as required by Section 226.8(o)(i) of Regulation Z:
 - a. The rate of discount and the date by which or period within which the discount may be taken;
 - b. The amount of the discount, designated as a "finance charge," using that term;
 - c. The "annual percentage rate," using that term.
2. Fail to accurately disclose the "cash price," using that term, as required by Section 226.8(c)(i), computed in accordance with Section 226.8(o)(7) of Regulation Z.
3. Fail to use the term "cash downpayment" to describe the amount of the downpayment in money, as required by Section 226.8(c)(2) of Regulation Z.
4. Fail to use the term "unpaid balance of cash price," to describe the difference between the cash price and the total downpayment, as required by Section 226.8(c)(3) of Regulation Z.
5. Fail to use the term "amount financed" to describe the amount of credit extended, as required by Section 226.8(c)(7) of Regulation Z.
6. Fail to use the term "total of payments" to describe the sum of the payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.
7. Fail to use the term "deferred payment price" to describe the sum of the cash price and the finance charge, as required by Section 226.8(c)(8)(ii) of Regulation Z.

PAR. 20. In the ordinary course of their business as aforesaid, respondents have caused to be published advertisements of their courses of instruction, as "advertisement" is defined in Regulation Z. These advertisements aid, promote or assist, directly or indirectly, extensions of consumer credit in connection with the sale of these courses. By and through the use of the advertisements, respondents state the period of payment which can be arranged in connection with a consumer credit transaction, without also stating all of the following

items in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) thereof:

1. The cash price;
2. The amount of the downpayment required or that no downpayment is required as applicable;
3. The number, amount and due dates or period of payments scheduled to repay the indebtedness if credit is extended;
4. The amount of the finance charge expressed as an annual percentage rate;
5. The deferred payment price.

PAR. 21. Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failures to comply with the provisions of Regulation Z constitute violations of that Act and, pursuant to Section 108(c) thereof, respondents have thereby violated the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereto with violation of the Federal Trade Commission Act, and the respondents 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 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 complaint to issue herein, 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 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, 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. Respondents Maralco Enterprises, Inc., New York School of Computer Technology, Inc., Education Beneficial, Inc., and Tuition Payments, Inc., are corporations organized, existing and doing business under and by virtue of the laws of the State of New York, with their

principal office and place of business located at 200 W. 51st St., New York, N.Y.

Respondents Hyman Marcus, Bartholomew Colangeli and Fred Rosenberg are officers of the corporate respondents. They formulate, direct and control the policies, acts and practices of the corporations, including the acts and practices hereinafter set forth. Their business address is the same as that of the corporate respondents.

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

I

It is ordered, That respondents Maralco Enterprises, Inc., New York School of Computer Technology, Inc., Education Beneficial, Inc., and Tuition Payments, Inc., corporations, their successors and assigns, and their officers, and Hyman Marcus, Bartholomew Colangeli, and Fred Rosenberg, individually and as officers of said corporations, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, or under any other name, in connection with the advertising, offering for sale, or sale of courses of instruction in electronic data processing, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing to send by certified mail, return receipt requested, to each person that shall contract with respondents for the sale of any course of instruction, a notice 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) Paragraphs containing the information set forth below, which shall be compiled and updated at least once every month. Such information shall be computed separately for each course of instruction offered by respondents at each school, location or facility.

(1) A paragraph as follows: "The information below relates to the (name of vocational school). The placement rate is the percentage of graduating students who obtained employment within three months of their graduation, in positions for which they were trained by this school."

(2) The "Placement Rate," using this term, to be determined as follows:

A. Respondents shall ascertain whether each graduate has obtained

employment within three months of graduation in a position for which respondents' course has prepared him. If such employment has been obtained, respondents shall further ascertain the name of the employer, the position and the starting salary obtained by the graduate.

B. The placement rate shall be the percentage of students who have graduated within the base period (as defined in Paragraph 1(b)(2)(C)) who have obtained employment as determined in 1(b)(2)A. The placement rate need not include those students exempted pursuant to subparagraph 1(b)(2)D.

C. The base period shall be the one-year period ending four months prior to the date on which the information required under 1(b) is compiled or updated.

D. At the time each student signs his enrollment contract, respondents shall have him complete the form set forth in Appendix A of this order. Students who indicate their intention not to seek employment in the computer field (by checking box number 3 on such form) need not be included in the computation of the school's placement rate.

(3) The "Salary Range" and the "Average Salary (Median)," using these terms, of the graduates who have obtained employment as determined pursuant to 1(b)(2)A.

(4) The dropout rate, using the term "Students Not Completing Course," which shall be the percentage of students who were scheduled to graduate from respondents' course during the base period who have discontinued or interrupted their studies without completing such course. *Provided, however,* The dropout rate need not include:

A. Any student who indicates in writing his desire to interrupt his course of study, provided such interruption not exceed six months; or

B. Any student whose enrollment contract, and all obligations thereunder, are expressly conditioned upon the receipt by the student of an educational loan guaranteed by a federal or state agency, if the student's application for such a loan is in fact rejected; or

C. Any student who cancels his enrollment contract pursuant to his right of cancellation set forth in Paragraph 8 of this order.

(5) A sentence which sets forth the time period upon which the data in subparagraphs (1)-(4) above are based.

Provided, however, subparagraph (b) shall be inapplicable, and no disclosures shall be made thereunder, in the case of any newly established school or course, as described in subparagraph (c), until such time as the new school or course has been in operation for 16 months.

(c) In the case of any newly established school that respondents may establish in any metropolitan area or county, whichever is larger, where

they did not previously operate a school, or to any course newly introduced by respondents, until such time as the new school or course has been in operation for 16 months, the following paragraph:

This school (course) has not been in operation long enough to indicate, what, if any, actual employment or salary may result upon graduation from this school (course).

(d) A paragraph which states that a list is available for inspection during respondents' business hours which contains the names of employers who have hired graduates of respondents' courses. Such list shall contain the names of those firms who employed students graduating in the most recent base period as ascertained by respondent in 1(b)(2)A.

(e) 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 laws more favorable to the customer. Respondents shall include with the notice a detachable form or post card, or other separate form as may be applicable under State or local law, which the person may use as a notice of cancellation, and which indicates the proper address for accomplishing any such cancellation.

The notice required under this paragraph shall be sent by respondents no sooner than the day after the person shall have contracted for the sale of any course of instruction. No other information or materials shall be sent with this notice except for the form or post card provided to the consumer which can be used by him as a means of cancellation. During the period provided in paragraph (e), respondents shall not initiate contact with such persons other than required by this paragraph. This shall not prohibit respondents from conducting classes for those students who have begun their classes prior to signing a contract, *Provided*, That such classes are solely instructional in nature.

2. Making any representations, orally or in writing, directly or by implication, concerning any of the following:

(a) The demand for persons completing any of the courses offered by respondents in the area of electronic data processing, or any other course in any field;

(b) The opportunities or prospects for employment, or the opportunities of any type or number, available to persons completing any of respondents' courses;

(c) The likelihood of placement in positions for which respondents' graduates have been trained; or

(d) The salaries that might be earned by graduates or potential graduates of respondents' courses; or the salaries of such graduates or potential graduates as compared to their previous or present salaries;

or the salaries of such graduates or potential graduates as compared to the salaries of any other persons or groups of persons.

Provided, however, That respondents may disclose in advertising, promotional materials or in any other manner the information otherwise disclosable pursuant to subparagraphs 1(b), 1(c) and 1(d) of this order. Such information shall be disclosed in the form and manner set forth in subparagraphs 1(b), 1(c), and 1(d), except that for the purposes of this provision, the information need only be updated once every six (6) months. If any such information is disclosed, all the information shall be disclosed.

3. Representing, by the use of photographs, testimonials or otherwise, the positions or salaries obtained by graduates of respondents' courses, or the employers who have hired such graduates. However, respondents may make such representations, *Provided, That:*

(a) In immediate conjunction therewith, respondents disclose the information required to be disclosed under subparagraphs 1(a), 1(b), 1(c) and 1(d) of this order. Such information shall be disclosed in the form and manner set forth in subparagraphs 1(a), 1(b), 1(c) and 1(d) except that for the purposes of this provision, the information shall be updated at least once every six (6) months. Such disclosures shall be made clearly, conspicuously and with the prominence afforded to the salary, job, and other employment representations.

(b) Any such representations are based on the experiences of persons who graduated from respondents' courses during the base period used to compute the information to be disclosed pursuant to Paragraph 3(a).

(c) The arithmetic average of the salaries disclosed is no greater than the median salary disclosed pursuant to Paragraph 3(a).

4. Representing, orally or in writing, directly or by implication that:

(a) College education, training beyond a high school diploma or job experience is not necessary or advantageous for the placement of persons in the field of electronic data processing, or otherwise representing that persons with a high school education or its equivalent will achieve employment in the electronic data processing field, unless in every such instance it is disclosed, in immediate and conspicuous conjunction therewith, that college education or job experience is highly advantageous for placement; or misrepresenting in any manner the qualifications necessary to achieve employment in any field.

(b) Any number of occupationally useful programming languages are taught in respondents' courses of instruction in excess of those actually provided; or representing in any manner the materials available to enrollees in said courses unless true; or representing that types or brands of computers are used, unless true and the designation of the computer is disclosed.

(c) Individual instruction adapted to the needs of each student is provided in respondents' courses of instruction; or misrepresenting in any manner the quality or type of instructional method used in said courses. *Provided, however*, Respondents may represent that a student can proceed at his or her own rate through the respondents' course material, if such is the fact.

5. Representing, orally or in writing, directly or by implication, that any courses of instruction are the equivalent of practical experience in the field of computer programming, or that the graduates of any such courses can represent themselves to prospective employers as experienced programmers.

6. Providing students of respondents' courses of instruction with resumes containing untrue information, suggesting to students that such resumes be prepared, or aiding in any way in the preparation of such resumes, or in any way verifying or attesting to false information included in resumes by graduates of respondents' courses of instruction.

7. Misrepresenting directly or by implication the significance or importance of any courses of instruction in qualifying any persons for employment in a particular field of endeavor, or misrepresenting in any manner the positions which graduates have obtained.

8. Contracting for any sale of any course of instruction in the form of a sales contract or other agreement which shall become binding prior to midnight of the third business day after the receipt by the customer of the form of notice provided for in Paragraph 1 above. Upon cancellation of any said sales contract or other agreement, as provided in Paragraph 1(e) above, respondents are obligated to refund within three business days to any person exercising the cancellation right all monies paid or remitted up until the notice of cancellation.

9. Making any representations of any kind whatsoever in connection with the advertising, promoting, offering for sale, sale or distribution of courses of study, training or instruction in the field of electronic data processing or any other course offered to the public in any field of commerce, for which respondents have no reasonable basis prior to the making or dissemination thereof.

II

It is further ordered, That respondents Maralco Enterprises, Inc., New York School of Computer Technology, Inc., Education Beneficial, Inc., and Tuition Payments, Inc., corporations, their successors and assigns, and their officers, and Hyman Marcus, Bartholomew Colangeli and Fred Rosenberg, individually and as officers of said corporations, and respondents' agents, representatives and employees, directly or

through any corporate or other device, in connection with any extension of consumer credit or in connection with any advertisement to aid, promote, or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 C.F.R. §226) and the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. §1601, *et seq.*), do forthwith cease and desist from:

1. Failing, when offering a reduction from the cash price to those who elect to meet their obligation on or before a specified date, to disclose, as required by Section 226.8(o)(1) of Regulation Z:

(a) The rate of discount, and date by which or period within which the discount may be taken;

(b) The amount of the discount, designated as a "finance charge," using that term; and

(c) The "annual percentage rate," using that term.

2. Failing to accurately disclose the "cash price," using that term, as required by Section 226.8 (c)(1), computed in accordance with Section 226.8(o)(7) of Regulation Z.

3. Failing to disclose the downpayment in money, and to describe that amount as the "cash downpayment," as required by Section 226.8(c)(2) of Regulation Z.

4. Failing to disclose the difference between the cash price and the total downpayment, and to describe that amount as the "unpaid balance of cash price," as required by Section 226.8(c)(3) of Regulation Z.

5. Failing to disclose the amount of credit extended, and to describe that amount as the "amount financed," as required by Section 226.8(c)(7) of Regulation Z.

6. Failing to disclose the sum of the payments scheduled to repay the indebtedness, and to describe that sum as the "total of payments," as required by Section 226.8(b)(3) of Regulation Z.

7. Failing to disclose the sum of the cash price and the finance charge, and to describe that sum as the "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.

8. Stating the period of payments which can be arranged in connection with a consumer credit transaction, without also stating all of the following items, in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) thereof:

(a) The cash price;

(b) The amount of the downpayment required or that no downpayment is required, as applicable;

(c) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if credit is extended;

(d) The amount of the finance charge expressed as an annual percentage rate; and

(e) The deferred payment price.

9. Failing in any consumer credit transaction or advertising to make all disclosures determined in accordance with Sections 226.4 and 226.5 of Regulation Z, at the time and in the manner, form and amount required by Sections 226.6, 226.8 and 226.10 of Regulation Z.

It is further ordered, That the respondent corporations 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.

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

It is further ordered, That respondents maintain adequate records, to be furnished upon request of the staff of the Federal Trade Commission, which evidence compliance with the provisions of this order, including, but not limited to, the names, addresses and scores of all persons who take an aptitude test of any kind, copies of all contracts entered into between respondents and customers, copies of all correspondence between respondents and their customers, records showing the name and address of each student, the dates of his attendance, the date of his graduation or other termination of his studies, the names and addresses of any employers he was referred to, and his position and starting salary.

It is further ordered, That no provision of this order shall be construed in any way to annul, invalidate, repeal, terminate, modify or exempt respondents from complying with agreements, orders or directives of any kind obtained by any other agency or act as a defense to actions instituted by municipal or State regulatory agencies. No provision of this order shall be construed to imply that any past or future conduct of respondents complies with the rules and regulations of, or the statutes administered by the Federal Trade Commission.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the

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Decision and Order

Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
ASSOCIATED DRY GOODS CORPORATION
CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 7 OF THE CLAYTON ACT

Docket 8905. Complaint, Dec. 1, 1972-Decision, July 28, 1975.

Consent order requiring a New York City department store organization, among other things to divest itself of all stocks, assets, properties, etc., which it acquired in 1972, comprising Ayr-Way Stores, Inc.

Appearances

For the Commission: *Martin A. Rosen, Peter J. Brickfield, and David B. Loken.*

For the respondents: *W.S. Jackson, Milbank, Tweed, Hadley & McCloy and Theodore J. Carlson, Gould & Wilkie, New York City. Abe Krash, Arnold & Porter, Wash., D. C.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Associated Dry Goods Corporation has violated the provisions of Section 7 of the Clayton Act (15 U.S.C. § 18) through its acquisition of L.S. Ayres and Company, and that a proceeding in respect thereof would be in the public interest, issues this complaint, stating its charges as follows:

I. Definitions

1. For purposes of this complaint, the following definitions shall apply:

(a) "Department stores," as referred to herein, includes retail establishments normally employing 25 people or more, having sales of apparel and soft goods combined amounting to 20 percent or more of total sales and engaged in selling each of the following lines of merchandise:

- (i) Furniture, home furnishings, appliances, radio and TV sets;
- (ii) A general line of apparel; and
- (iii) Household linens and dry goods.

For establishments classified as department stores, sales of each of the lines listed above must be less than 80 percent of total sales. However, an establishment with total sales of \$5 million or more is classified as a department store even if sales of one of the merchandise lines described above exceed the maximum percent of total sales,