

FEDERAL TRADE COMMISSION DECISIONS

FINDINGS AND ORDERS, JULY 1, 1952, TO JUNE 30, 1953

IN THE MATTER OF

BETHANY COLLEGE AND DIVINITY SCHOOL ET AL.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 5562. Complaint, May 28, 1948—Decision, July 9, 1952

Academic degrees have for many years been recognized by educators and members of the public as conferred upon the recipient by a recognized college or institution of higher learning after successful completion of a required, approved course of study in specific subjects of learning. Such degrees are recognized by standard colleges and universities and accrediting organizations as evidence of scholastic attainment.

Where a corporation and a husband and wife, its officers, engaged in the interstate sale and distribution of correspondence courses in various subjects of higher learning—

(a) Made use of the word "college" in the corporate name, and represented thereby and through advertisements in religious periodicals, circulars, and catalogs that their school was a college which maintained a faculty of competent scholars and adequate facilities, including buildings and a library for the instruction of students in subjects of higher learning;

The facts being that their said school was not a college as understood by the purchasing public and the educational field, but was essentially a correspondence school only; it owned no buildings or other real property and never had a permanent location; had practically no financial resources; and the library thereof was limited to some 800 to 900 books including textbooks kept for sale to students; and

(b) Represented falsely through offering to confer or conferring so-called academic degrees, and through their aforesaid advertising, that their school was recognized by a standard accrediting organization, and that its credits and academic degrees were recognized by reputable accredited institutions of higher learning;

The facts being that the "National Association of Christian Schools" referred to was not a recognized educational institution, and said purported academic degrees were of no academic value whatsoever;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public and thereby cause its purchase of their courses of instruction:

Complaint

49 F. T. C.

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice of the public and constituted unfair and deceptive acts and practices in commerce.

In the aforesaid proceeding, while the distribution of respondents' courses of instruction appeared to have been discontinued about one year prior to the issuance of the complaint—though subsequent to the initiation of the preliminary investigation in the matter—it could only be concluded on the basis of the record that the corporate respondent was still in existence, and that it continued under the control of the aforesaid respondents, and the Commission was of the view that the public interest required issuance of an appropriate order to the end that the unfair acts and practices theretofore engaged in by respondents might not be resumed.

While ten other individuals were also joined in the complaint as respondents in the instant matter, which alleged that they served in various capacities with the corporate respondent, as members of its board of governors, administrative officials or teachers, and that in such connection they had participated in the formation of the corporate respondent's policies and in the performance of the deceptive acts and practices engaged in: it appeared that no meetings of the Board were held, that in most instances said individuals did not assume their respective positions, and that they did not share responsibility for the conduct of the enterprise or participate in formulating the policies which were adopted; and the charges of the complaint as to said individuals were accordingly dismissed.

As respects the charge in the complaint that respondents had falsely represented that they operated a divinity school as that term is understood by the public and in educational circles, the Commission was of the opinion that such charge had not been sustained by the greater weight of the evidence and that its dismissal also was warranted, since the evidence introduced into the record did not afford basis for the informed conclusion as to what impressions might be engendered among members of the purchasing public by the term "divinity school".

Before *Mr. Henry P. Alden* and *Mr. William L. Pack*, hearing examiners.

Mr. William L. Pencke for the Commission.

Erickson & Nygren, of Chicago, Ill., for Grace Sercomb.

Mr. Harry I. Hannah, of Mattoon, Ill., for Richard H. Crowder.

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 Bethany College and Divinity School, a corporation, and Carl M. Kilmer and Lulu M. Kilmer, individually, and as president and treasurer, and secretary and vice president, respectively, of said corporation, and William Potter, Grace Sercomb, Ted Victor Vorhees, J. Frederick Doering,

1

Complaint

William Morgan Keller, Carl M. Kilmer, Jesse J. Coody, Richard H. Crowder, Merle P. Estabrooks, Edith C. Sheetz, and John W. Oliver, individually and as officers and members of the Board of Governors of said corporation, hereinafter referred to as respondents, have violated the provisions of the 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, Bethany College and Divinity School, also referred to herein as School, is a corporation not for profit, organized, existing and doing business under the laws of the State of Illinois, with its principal office and place of business located at 123 Eighth Street, North, in the city of St. Petersburg and State of Florida;

Carl M. Kilmer is President, Treasurer, Chairman of the Board of Directors, and Treasurer of the Board of Governors of said corporate respondent, and is further designated Chairman of the Executive Committee, Director of Home Study and Extension, and a member of the faculty of said school. Lulu M. Kilmer is Secretary, a Vice President and Assistant Treasurer, and is also designated a member of the Executive Committee and the Librarian of said school. Both respondents reside at 123 Eighth Street, North, St. Petersburg, Florida.

William Potter, whose mailing address is Box 328, Carthage, Mississippi, is a Vice President and member of the Board of Governors; and is also designated Dean of the Department of Evangelism;

Grace Sercomb, with her business address at 123 Eighth Street, North, St. Petersburg, Florida, is a member of the Board of Governors, and also designated Registrar and Dean of Women;

Ted Victor Vorhees, residing at 209 Fourth Street, Monessen, Pennsylvania; J. Frederick Doering, residing at Morehead, Kentucky; William Morgan Keller, residing at Pineville, Louisiana; Jesse J. Coody, residing at 2905 Lake Shore Drive, Shreveport, Louisiana; Richard H. Crowder, 3321 Western Avenue, Mattoon, Illinois; Merle P. Estabrooks, whose mailing address is Box 193, Corinna, Maine; Edith C. Sheetz, residing at 4723 South Lake Park, Chicago, Illinois; and John W. Oliver, residing at 621 Olive Street, North Little Rock, Arkansas, are members of the Board of Governors of said respondent School, and in addition, said Ted Victor Vorhees is a member of the faculty, said J. Frederick Doering, President of the Board of Governors, said William Morgan Keller, Secretary of the Board of Governors and a member of the faculty, and said Edith C. Sheetz, a member of the faculty of said school.

All of said individual respondents participate in the conduct, operation and management of said Bethany College and Divinity School and in the formulation and determination of its policies in their respective capacities as officers, Board members and instructors as is hereinafter more fully shown.

PAR. 2. Said respondents are now and have been for more than one year last past, engaged in the sale and distribution in commerce between and among the various States of the United States and in the District of Columbia, of courses of study and instruction in various subjects of higher learning, including foreign languages, mathematics, science, psychology, education, music, history, and numerous courses in theology, leading to bachelor's, master's and doctor's degrees. Said courses of study are pursued mainly by correspondence through the medium of the United States mail but are also offered in residence. Respondents, during the time aforesaid, caused and do now cause their said courses of study and instruction and the degrees and diplomas conferred and awarded by them, to be transported from their said place of business in the State of Florida to purchasers thereof located in the several States of the United States other than the State of Florida.

PAR. 3. There is now, and has been at all times hereinafter mentioned, a course of trade in said courses of study so sold and distributed by the respondents in commerce between the various States of the United States and the District of Columbia.

PAR. 4. A college, as generally understood in the educational field and by the general public, is an institution of higher learning, including subjects in the arts, sciences and professions, such as law, medicine, music, and theology, with adequate equipment in the form of buildings, laboratories, libraries and dormitories for resident students and sufficient financial resources to operate and maintain such institution; with an adequate and competent resident faculty of learned persons qualified and trained to teach the respective subjects offered by such institution and possessing degrees from recognized universities and colleges.

A degree is an academic rank recognized by colleges and universities having a reputable character as institutions of higher learning and which are so recognized and accredited by standard accrediting organizations, and which degree conveys to the ordinary mind the idea of some collegiate, university or scholastic distinction.

PAR. 5. In the course and conduct of their business, as aforesaid, respondents by means of newspaper advertisements, catalogs and circulars, mailed to purchasers and prospective purchasers of their said courses of study, have made and are making many false, exaggerated,

1

Complaint

misleading and deceptive statements and representations with respect to said School and the acceptance and recognition of its credits and degrees awarded by them. Typical of said representations, but not all inclusive, are the following advertisements, published in religious magazines, such as The Pulpit Digest, The Christian Century, and others:

MINISTERS! TEACHERS!

Approved courses in theology, teacher training, Christian education. Improve your work. Earn a college degree. Low cost, books furnished. D. Th., B. Th., M. A., B. Sc. granted. Free catalogue. Bethany College and Divinity School.

Excellent faculty, coeducational, graduate and under-graduate. Home Study Department open to those unable to enter residence classes. 1946-1947 Bulletin free.

Graduate and Under-graduate work, excellent faculty, coeducational. Department of Home Study offers 330 subjects in 26 areas of instruction. 1946-1947 Bulletin now ready.

College and seminary levels, certificate courses. Home Study work for employed persons at modest cost.

In their 1946-1947 catalog or bulletin, distributed as aforesaid, respondents make many representations purporting to describe said School and its facilities and equipment. Among said representations are statements that the departments of instruction consist of residence and extension classes, a department of home study and the graduate division; that the scholastic year is divided into three quarters and a summer session, giving specific dates for registration and other activities; that the School is managed by four administrative officers, and a Board of Governors; that the institution consists of a Liberal Arts College and a Divinity School, administered by said Board of Governors of not less than nine qualified educators and ministers elected to the Board because of their special fitness for duties and responsibilities; that the work offered is of orthodox college level and in accordance with the standards set by recognized regional accrediting associations with reference to entrance requirements, faculty, text books and grading standards; that credits earned in other approved schools may be accepted toward advanced standing and students may transfer to other schools conditionally; that the faculty consists of ten or more qualified teachers, each possessing numerous degrees from various colleges and universities; that the college does not operate dormitories but will assist students in finding homes, a list of which will be kept in the office of the Registrar; that each new student in residence is required to pass a physical examination by the college physician; that the subjects offered in the Department of Home Study are the same that are taught in residence by the regular faculty and the same credit is given for work completed in

said department as for that completed in residence; that the Bachelor of Arts and Bachelor of Science degrees may be earned through home study in the College of Liberal Arts; and under-graduate degrees of Bachelor of Arts in Theology, Bachelor of Science, Bachelor of Theology and Bachelor of Religious Education may be earned in the Divinity School; and that the degrees of Bachelor of Divinity, Master of Arts, Master of Arts in Religion, Master of Arts in Christian Education, and Master of Sacred Theology and Doctor of Theology may be obtained in the Graduate Division of the Divinity School.

In a circular distributed as aforesaid, respondents represented among other things that "all work is strictly on a proper level and is accredited by the National Association of Christian Schools."

PAR. 6. By means of the foregoing representations and others of similar import not herein set out specifically, respondents represent and imply to the purchasing public: that they conduct and operate a college and divinity school as said terms are generally understood by the public and in educational circles; that under-graduate and graduate classes are conducted in many subjects of higher learning, including the arts and sciences, languages, music and theology, both in residence and by correspondence; that there is a resident faculty of qualified professional men carefully selected and competent to teach the subjects in their respective fields; that adequate class rooms, buildings and libraries are maintained; that the scholastic year is divided into quarters and sessions, with fixed dates therefor; that resident students are examined by the college physician as part of their entrance requirements; that the credits of said School are accepted at full value by many universities and colleges; that the School is recognized by a standard accrediting organization, and that it in turn recognizes credits from other accepted and recognized schools; that said school's general educational standards are high and comparable to the standards of recognized institutions of higher learning; that said school is operated by administrative officers and a Board of Governors, the members of which, together with the members of the faculty, devote part or all of their time to the work of said school, and that its academic degrees are recognized by reputable accredited educational institutions of higher learning.

PAR. 7. In truth and in fact all of the foregoing statements, representations and implications are grossly deceptive, false and misleading. The business operated by respondents is not that of an institution of higher learning. The school conducted by respondents is neither a college nor a divinity school or seminary, as said terms are generally understood by members of the public and the educational world.

Respondents have none of the facilities, equipment and faculty hereinabove described. Their business is operated in two small rooms in a one-story building in St. Petersburg, Florida, part of one of said rooms also being used as living quarters for respondents Carl M. Kilmer and Lulu M. Kilmer. There are no laboratories and no libraries consisting of text books, scientific journals or other material necessary or adequate for the study of the numerous subjects offered. Respondent Carl M. Kilmer maintains a small collection of books which constitute the library and stock of books for sale, both being wholly inadequate for use in the proper teaching and study of the many subjects offered by respondents.

Neither said administrative officers nor said Board of Governors function to administer the affairs of an educational institution. Respondents Carl M. Kilmer and his wife, Lulu M. Kilmer, are the only individuals devoting all of their time to the operation of said business. None of the other persons named as administrative officers and members of the Board of Governors have taken any active part whatever in the management or operation of said school, nor have they ever attended any meeting. With the exception of respondent Grace Sercomb, they are located in various States other than the State of Florida, and have never visited the place of business operated by respondents Carl M. and Lulu M. Kilmer. Their participation in the formulation and determination of the policies and practices of said school is as follows:

Respondent Grace Sercomb, designated as Dean of Women, has performed none of the work which usually devolves on a Dean of a department in a college, her activities consisting of coaching a few high school students.

Respondent J. Frederick Doering, described in respondents' said catalog as President of the Board of Governors, discussed the policies of the school on two occasions and advised as to location, fund raising, accreditation and a suitable staff of personnel with respondent Carl M. Kilmer on the latter's visit to Morehead, Kentucky.

Respondent William Morgan Keller, designated the Secretary of the Board of Governors, and teacher of music, has never performed any services nor met with the Board. He participated in the affairs of the school by preparing an outline for a music course; and was given an honorary degree of Doctor of Music.

Respondent Jesse J. Coady became a member of said Board of Governors while said school was located in Rodessa, Louisiana, where he attended several meetings of said Board.

Respondent Richard H. Crowder, since his appointment to the Board of Governors, performed no duties as member of said Board.