

Complaint

96 F.T.C.

IN THE MATTER OF  
MACMILLAN, INC., ET AL.

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

*Docket 9110. Complaint May 23, 1978—Decision, Sept. 4, 1980*

This order requires a New York City publishing firm and its Chicago, Ill. subsidiary, LaSalle Extension University, among other things, to cease, in connection with the advertising and sale of correspondence courses, misrepresenting the school's admission policy; the need or demand for graduates of their courses; the employment prospects and potential earnings available to them; and the requirements or qualifications necessary to obtain employment in their chosen fields. Advertisements containing any job or earnings claim must include a disclaimer stating that "Graduation from this course does not guarantee you will get a job;" and testimonials which do not reflect the typical student experience must advise that the described experience is atypical. Further, if respondents represent to any prospective student that there is an employment demand for graduates of a relevant course, they must clearly and conspicuously disclose specified information regarding the vocation success rate of previous students. Additionally, respondents are prohibited from misrepresenting or failing to disclose material facts concerning a student's financial obligations upon enrollment, and right to cancellation and refund.

*Appearances*

For the Commission: *Alice S. Perlin.*

For the respondent: *Bella Linden and Frederick F. Greenman, Linden & Deutsch, New York City and Abe Fortas, Fortas & Koven, Washington, D.C.*

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 Macmillan, Inc., a corporation, and LaSalle Extension University, a corporation, hereinafter sometimes referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its Complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Macmillan, Inc. (hereinafter sometimes referred to as Macmillan) is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of

Delaware, with its principal place of business located at 866 Third Ave., New York, New York.

Respondent LaSalle Extension University (hereinafter sometimes referred to as LEU) is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 417 South Dearborn St., Chicago, Illinois. Respondent LaSalle Extension University is a wholly-owned subsidiary of respondent Macmillan, Inc.

The aforementioned respondents have cooperated, and acted together in carrying out the acts and practices hereinafter set forth. Respondent Macmillan has known of, condoned and approved, expressly or tacitly, the acts and practices of respondent LEU hereinafter set forth. Respondent Macmillan has assumed financial responsibility for respondent LEU.

PAR. 2. Respondents have been, and are now, engaged in the advertising, promotion, formulation, offering for sale, sale and distribution of correspondence courses of instruction to the public involving high school courses and those purporting to prepare completing students thereof for employment, advancement, or increased earnings in the fields of air conditioning and refrigeration, interior decorating, computer programming, hotel/motel executive training and various other fields of employment. Their volume of business has been, and is, substantial. [2]

PAR. 3. In the course and conduct of their aforesaid business, respondents have disseminated and caused to be disseminated by various means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, certain advertisements concerning their correspondence courses, including but not limited to advertisements inserted and published in newspapers and magazines of general interstate circulation, by means of brochures, pamphlets and other promotional materials disseminated through the United States mail, commercial announcements on radio and television transmitted across state lines, and by other means for the purpose of obtaining leads or prospects for the sale of such correspondence courses and for the purpose of inducing the purchase of such correspondence courses.

Respondents have caused, and now cause, said courses of instruction to be shipped and distributed from their places of business or sources of supply to purchasers and prospective purchasers thereof located in various States of the United States other than the state of origination. Respondents transmit and receive and have caused to be transmitted and received, in the course of advertising, offering for sale, sale and distribution of such correspondence courses, advertis-

ing and promotional materials, invoices, checks, enrollment contracts, retail installment contracts, collection notices and various other commercial papers or documents to and from prospective students and students located in various States of the United States, other than the state of origination.

Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in such correspondence courses, and other products or services in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended.

PAR. 4. In the course and conduct of their aforesaid business, for the purpose of obtaining leads or prospects for the sale of their correspondence courses and for the purpose of inducing the purchase of such correspondence courses, respondents have made numerous statements and representations in oral sales presentations to prospective students and in magazines, brochures, and other media regarding opportunities for employment or advancement, occupational demand, earnings potentials, the qualifications of students who complete respondents' correspondence courses, the instruction and assistance available to students, and other related matters.

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

1. There is substantial need or demand for students who complete respondents' correspondence courses in the positions and career fields for which respondents train such students. [3]

2. Students completing respondents' correspondence courses will receive high wages or salaries from employment in the positions or career fields for which respondents train such students.

3. Students completing respondents' correspondence courses are qualified thereby to secure employment in the positions or career fields in which respondents train such students without further training or experience.

4. Respondents have admissions requirements and procedures to screen prospective students and to determine whether such prospective students have the qualifications and ability to assimilate successfully and complete respondents' correspondence courses.

PAR. 6. In truth and in fact:

1. There is not substantial need or demand for students complet-

ing respondents' correspondence courses in the positions or career fields for which respondents train such students.

2. In many instances students completing respondents' correspondence courses have not received high wages or salaries from employment in positions for which respondents train such students.

3. In many instances students completing respondents' correspondence courses are not thereby qualified to secure employment in the positions or career fields in which respondents train such students without further training or experience.

4. Respondents do not screen prospective students. To the contrary, respondents require few qualifications of prospective students and accept all or most persons for enrollment in such courses who are willing to execute a contract to pay for such correspondence courses. Any admission requirements or procedures used by respondents do not determine whether such prospective students have the qualifications and ability to assimilate successfully and complete respondents' correspondence courses; to the contrary, any such admission requirements or procedures are used by respondents as promotional devices to induce the purchase of respondents' correspondence courses.

Therefore, the statements and representations set forth in Paragraphs Four and Five were and are false, misleading, deceptive or unfair acts or practices.

PAR. 7. Through the use of the aforesaid advertisements, materials, oral presentations and otherwise, respondents have represented, directly or by implication, that there is or will be a substantial need or demand for all or most of the students enrolled in respondents' correspondence courses in [4]career fields for which respondents train them. Respondents at the time of said representations had no reasonable basis adequate to support such representations. Therefore, the aforesaid acts and practices were and are unfair acts or practices.

PAR. 8. In the further course and conduct of their aforesaid business, respondents have represented that students who have finished respondents' high school courses and received a diploma therefrom, have, on that basis alone, qualified themselves as high school graduates and were recognized as such by the state in which they were domiciled or worked.

PAR. 9. In truth and in fact all or virtually all of the States of the United States require a person not a graduate of a resident high school to take a general equivalency or other similar test in order to be recognized as a high school graduate.

Therefore, the aforesaid acts and practices were and are false, misleading, deceptive or unfair acts or practices.

PAR. 10. Respondents further have offered for sale correspondence courses intended to give students high school training without disclosing that all or virtually all States of the United States allow a person over 19 years of age to take a high school equivalency or similar test which would qualify the person as the equivalent of a high school graduate who had received a diploma, without the necessity of taking any courses. Therefore, the aforesaid acts and practices were and are false, misleading, deceptive or unfair acts or practices.

PAR. 11. Through the use of the aforesaid advertisements, materials, oral presentations and otherwise, and for their purpose of inducing the purchase of correspondence courses, respondents have degraded, debased or disparaged the present or potential career opportunities, education, training, family standing, community status, self-image or other personal characteristics of prospective students. Further, respondents represent, directly or by implication, that such prospective students can alter or improve such personal characteristics through respondents' correspondence courses.

The effect of the aforesaid disparagements and representations has been to aggravate and continue the unfair and deceptive effect of the acts and practices set forth herein. Therefore, the aforesaid acts and practices of respondents were and are unfair acts or practices.

PAR. 12. In the further course and conduct of their aforesaid business, respondents have failed to disclose or have misrepresented the true nature of the financial obligation to students who signed enrollment agreements or contracts.

The deceptions resulting from the acts or practices described in this Paragraph Twelve are continuing, in many instances, through the period of the students' enrollment and concomitant deferred payment obligations. [5]

Therefore, the aforesaid acts and practices of respondents were and are false, misleading, deceptive or unfair acts or practices.

PAR. 13. In the further course and conduct of their aforesaid business, and in furtherance of their purpose of inducing prospective students to execute enrollment contracts for the purchase of their correspondence courses, respondents and their employees, sales force members, and representatives, through the use of the false, misleading and deceptive statements, representations and practices set forth herein in this Complaint, have been able to induce prospective students into executing enrollment contracts upon initial contact without affording such students sufficient time to carefully consider

the purchase of correspondence courses. Therefore, the aforesaid are unfair acts or practices.

PAR. 14. Through the false, misleading and deceptive acts or practices, and the unfair acts or practices herein set forth in this Complaint, respondents have induced students and other persons or entities to pay, or contract to pay, to respondents substantial sums of money to purchase or pay for respondents' correspondence courses. In many instances such monies were paid to and received by respondents although such courses were of little value to students in fulfilling the expectations created by respondents' representations or contracts. Respondents have received the aforesaid monies and have failed to offer to refund such sums to, or to rescind contractual obligations of, many students and other persons or entities participating in the financing of such correspondence courses.

By inducing students and other persons or entities to pay, or contract to pay, to respondents substantial sums of money for respondents' correspondence courses where such correspondence courses are of little value to students and by failing to offer or refund such sums to, or to rescind the contractual obligations of many students and other persons or entities where such courses are of little value, respondents have engaged in unfair acts and practices.

Therefore, the said acts or practices constitute unfair acts or practices in violation of Section 5 of the Federal Trade Commission Act.

PAR. 15. By and through the use of the aforesaid acts and practices, statements and representations, respondents have placed in the hands of others the means and instrumentalities by and through which they mislead and deceive the public in the manner hereinabove alleged.

PAR. 16. The use by respondents of the aforesaid false, misleading, unfair or deceptive statements, representations, acts and practices, has had, and now has, the capacity and tendency to mislead and deceive a substantial portion of members of the general public into the erroneous and mistaken belief that said statements and representations were, and are, true and complete, [6]and to induce a substantial number thereof to purchase respondents' correspondence courses by reason of said erroneous and mistaken beliefs.

PAR. 17. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and constituted, and now constitute, unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5 of the Federal Trade Commission Act, as amended.

INITIAL DECISION BY THEODOR P. VON BRAND, ADMINISTRATIVE  
LAW JUDGE

APRIL 28, 1980

PRELIMINARY STATEMENT

The complaint charges that Macmillan, Inc. and LaSalle Extension University in the course of operating a correspondence school violated Section 5 of the Federal Trade Commission Act.

The complaint alleges essentially that respondents misrepresented: [2]

1. the occupational demand for respondents' graduates in the fields for which respondents train their students.
2. the earnings potential of students completing respondents' correspondence courses.
3. that graduates of respondents' courses would be qualified to secure employment in the fields, in which respondents trained such students, without further training or experience.
4. that respondents had admission requirements to screen prospective students to determine that such students had the qualifications and ability to successfully assimilate and complete respondents' courses.

(Paragraphs Four and Five)

The complaint substantially alleges:

That respondents had no reasonable basis to support the representation that a substantial need or demand existed for all or most of the students enrolled in respondents' correspondence courses in the fields for which they trained.

(Paragraph Seven)

That respondents, as part of their sales or promotional effort, debased or disparaged the career potential, self image or other personal characteristics of prospective students, and that respondents further represented directly or by implication that prospective students could alter or improve such personal characteristics through respondents' correspondence courses. It is charged that such disparagement was unfair since it aggravated and continued the unfair and deceptive effect of the other acts and representation alleged illegal in the complaint.

(Paragraph Eleven)

[3] That respondents failed to disclose or misrepresented the true nature of the financial obligation incurred by those signing enrollment agreements or contracts.

(Paragraph Twelve)

That respondents through the use of false misleading and deceptive statements and practices alleged in the complaint induced prospective students to execute enrollment contracts without affording them sufficient time to consider such purchase.

(Paragraph Thirteen)

That respondents through the deceptive or unfair acts and practices alleged by the complaint induced students or others to pay substantial sums of money for their correspondence course. In many instances, it is alleged, such monies were paid to and received by respondents "although such courses were of little value to the students in fulfilling the expectations created by respondent's representations or contracts." The failure to refund or offer to refund such sums where the courses were of little value to students is alleged to be unfair.

(Paragraph Fourteen)

Paragraphs Eight, Nine, and Ten of the complaint alleged various misrepresentations concerning respondents' high school courses. No evidence was offered in support of these charges and they were dismissed.

This matter is now before the undersigned for decision based on the allegations of the complaint, the answers, the evidence of record and the proposed findings of fact, conclusions and briefs filed by the parties. All proposed findings of fact, conclusions and agreements not specifically found or accepted herein are rejected. The undersigned, having considered the entire record and the contentions of the parties, makes the following findings of fact and conclusions, and issues the orders set out herein. [4]

#### FINDINGS OF FACT

##### I. Identity of Respondents and the Nature of Their Business

1. Respondent Macmillan, Inc. (hereinafter cited as Macmillan) 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 866 Third Ave., New York, New York (Comp. Par. 1; Macmillan Ans. Par. 1).

2. Macmillan is engaged, directly and through its subsidiaries, in five lines of business: publishing, educational instruction, printing, manufacture of musical instruments, and film and book club distribution (CX 376C-D, 377D, 378E, 379B).

3. Respondent LaSalle Extension University (hereinafter cited as LaSalle) is a wholly-owned subsidiary of Macmillan (Comp. Par. 1; LaSalle Ans. Par. 1; Macmillan Ans. Par. 1). LaSalle is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois with its principal office and place of business located at 417 South Dearborn St., Chicago, Illinois (Comp. Par. 1; LaSalle Ans. Par. 1). It operates the Wayne School as an unincorporated division of LaSalle Extension University (RA 15).

4. LaSalle has been and is now engaged in the offering for sale and the sale of correspondence school education courses to the public (Comp. Par. 2, LaSalle Ans. Par. 2).

5. LaSalle is accredited by the National Home Study Council (CX 330). It operates under annual Certificates of Approval issued by the Office of the Superintendent of Education, State of Illinois and is licensed to do business in 17 other states (CX 327J).

6. LaSalle, as of 1975, offered correspondence courses in the following areas:

- Accounting
- Administrative Assistant
- Associate Degree Program in Accounting
- Associate Degree Program in Banking and Finance
- Associate Degree Program in Business Management [5]
- Associate Degree Program in Hotel and Restaurant Administration
- Bachelor of Science in Commerce and Social Studies
- Banking and Finance
- Basic Computer Programming
- Business Management
- California Law Program
- Drafting
- Electronics, FCC License
- Law for Executive Leadership
- Hotel/Motel Executive Training
- Interior Decorating
- LaSalle Writing Program

Personnel Management  
 Real Estate  
 Restaurant/Club & Food Management  
 Secretarial Training  
 Stenotype  
 Supervisory Management  
 Traffic and Transportation  
 Writing  
 Basic Air Conditioning and Refrigeration Service  
 Basic Diesel Mechanics  
 Dental Office Assistant  
 High School

(CX 151R). New enrollments in the Basic Computer Programming course were terminated at approximately the end of 1977.

7. In the period 1973-1977, LaSalle enrolled the following numbers of students in its courses:

|      | <i>Total<br/>(All Courses)</i> | <i>Computer<br/>Programming</i> | <i>Air Conditioning<br/>&amp; Refrigeration<br/>Service</i> | <i>Interior<br/>Decorating</i> |
|------|--------------------------------|---------------------------------|---|--------------------------------|
| 1973 | 86,913                         | 2,363                           | 3,575   | 10,282                         |
| 1974 | 92,551                         | 2,732                           | 2,870   | 11,086                         |
| 1975 | 53,187                         | 1,500                           | 1,477   | 6,744                          |
| 1976 | 37,283                         | 1,117                           | 872   | 5,108                          |
| 1977 | 34,704                         | 1,038                           | 857   | 3,901                          |

(RA 22, 23, 24, 25).

8. In the course and conduct of its business, LaSalle disseminated and caused to be disseminated by various means in [6]or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, certain advertisements concerning its correspondence courses, including but not limited to advertisements inserted and published in newspapers and magazines of general interstate circulation. It has also utilized brochures, pamphlets and other promotional materials disseminated through the United States mail, commercial announcements on radio and television transmitted across state lines, as a means to obtain leads or prospects for the sale of correspondence courses and to induce the purchase of such courses (Comp. Par. 3; LaSalle Ans. Par. 3).

9. LaSalle is engaged in commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, in connection with

the offering for sale and sale of correspondence school courses for compensation (Comp. Par. 3; LaSalle Ans. Par. 3).

10. LaSalle maintains and has maintained a substantial course of trade in its correspondence courses and other products or services in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended (Comp. Par. 3; LaSalle Ans. Par. 3).

11. Macmillan's sales and revenues in the period 1973-1977 were as follows:

|      |               |
|------|---------------|
| 1973 | \$420,372,000 |
| 1974 | 466,584,000   |
| 1975 | 477,347,000   |
| 1976 | 493,425,000   |
| 1977 | 512,727,000   |

(RA 21). Its volume of business has been, and is, substantial.

12. LaSalle's sales and revenues for the years 1973-1977 were as follows:

|      |              |
|------|--------------|
| 1973 | \$35,573,000 |
| 1974 | 36,582,000   |
| 1975 | 21,737,000   |
| 1976 | 17,192,000   |
| 1977 | 14,505,000   |

(RA 20). Expressed as a percentage of Macmillan's sales and revenues, LaSalle's contribution was:

|      |          |
|------|----------|
| 1973 | 8.46%    |
| 1974 | 7.74 [7] |
| 1975 | 4.55     |
| 1976 | 3.48     |
| 1977 | 2.83     |

(RA 20).

13. LaSalle's volume of business has been, and is, substantial.

## II. Interrelationship of Macmillan and LaSalle

### A. Corporate Officials

14. On August 30, 1978, Macmillan's Corporate Officials were the following:

|   |                   |
|---|-------------------|
| Chairman of the Board and<br>Chief Executive Officer<br>(RA 1)                      | Raymond C. Hagel  |
| President and Chief <sup>1</sup><br>Operating Officer (from<br>June 8, 1976) (RA 2) | Robert A. Barton  |
| Vice-Chairman of the Board,<br>Deputy Chief Operating<br>Officer, Director (RA 9)   | Alan L. Baker     |
| Senior Vice President and<br>Controller (RA 8)                                      | James P. Kressler |
| Treasurer and Assistant<br>Secretary (RA 6)   | Gordon H. DeWerth |
| Secretary (RA 5)  | Jeffrey R. Minot  |

15. LaSalle's principal officers as of September 1978 were:

|   |                               |
|---|-------------------------------|
| [8]President and Chairman of<br>the Board | Robert A. Barton <sup>2</sup> |
| Vice-President                            | Robert Cornwell               |
| Vice-President                            | Charles Marshall              |
| Vice-President                            | Calvin Israel                 |
| Controller                                | John Sadler                   |

(CX 110B; RA 2).

1. Overlap between Macmillan and LaSalle Officials and Involvement of Macmillan Officials in LaSalle's Business

16. Robert A. Barton, Director, President and Chief Operating Officer of Macmillan was also Director, Chairman of the Board and President of LaSalle (RA 2). Mr. Barton reported directly to Macmillan's Chairman of the Board (Barton 1795). As President of Macmillan, he was responsible for the assets of Macmillan and its subsidiaries as well as Macmillan's business strategy as carried out by its subsidiaries (Barton 1794).

17. Alan L. Baker, a Director, Vice-Chairman of the Board and Deputy Chief Operating Officer of Macmillan and a Director of LaSalle shared certain of Mr. Barton's responsibilities in managing Macmillan's business. He reported directly to Mr. Barton (RA 9; Barton 1795-96).

18. James P. Kressler, Senior Vice President and Controller of Macmillan was a Director of LaSalle and LaSalle's Executive Vice-

<sup>1</sup> Mr. Barton was Executive Vice President of Macmillan in the period 1973-June 8, 1976 (RA 2).

<sup>2</sup> Mr. Barton held these positions from May 1975 and was still in these positions as of August 30, 1978 (RA 2).

President of Finance (RA 8). Mr. Kressler reported directly to Macmillan's Chairman of the Board (Barton 1797). As Macmillan's senior financial officer, he had primary responsibility for the books and accounts of Macmillan and its subsidiaries. He was responsible for the auditing, accounting policy and the financial reporting system of the parent company and its subsidiaries (Barton 1796).

19. Gordon H. DeWerth was Treasurer and Assistant Secretary of Macmillan and Treasurer and a Director of LaSalle (RA 6). Mr. DeWerth, who reported directly to Macmillan's Controller was responsible for Macmillan's consolidated cash management, [9]investment of excess cash for foreign exchange, and pension investments (Barton 1796-97; DeWerth 1834).

20. The predecessor of Macmillan's current Treasurer and Assistant Secretary had also concurrently held the position of Director and Treasurer in LaSalle (RA 4).

21. Jeffrey A. Minot was Secretary of both Macmillan and LaSalle on August 30, 1978 (RA 5).

22. The predecessor of Macmillan's current Secretary was concurrently Secretary of LaSalle (RA 7).

23. The Chairman of the Board of Macmillan selected LaSalle's directors in consultation with Mr. Barton (Barton 1798). It is common practice to have some employees of Macmillan as Directors of LaSalle (Barton 1798-99).

24. There was extensive overlap in the positions of the officials and directors of Macmillan and LaSalle. See the following chart showing the positions held by certain key officials in the parent company and LaSalle as of January 1, 1977:

*Robert A. Barton*

Director, President, Chief Operating Officer, Macmillan  
Director, Chairman of the Board, President, LaSalle

*Warren B. Smith*

Senior Vice-President, Macmillan  
Director, LaSalle

*Alan L. Baker*

Director, Vice Chairman of the Board, Deputy Chief  
Operating Officer, Macmillan  
Director, LaSalle

*James P. Kressler*

Senior Vice-President, Controller, Macmillan  
Director, Vice-President, Finance, LaSalle

*Gordon H. DeWerth*

Treasurer, Assistant Secretary, Macmillan

Director, Treasurer, LaSalle  
*Jeffrey R. Minot*  
Secretary, Macmillan  
Secretary, LaSalle [10]

#### B. Duties and Reporting Relationships of LaSalle Officials

25. Robert A. Barton, LaSalle's Chairman of the Board and President, while serving as Macmillan's President, Chief Operating Officer and Director, was responsible for the business strategy of LaSalle, including development of long and short-range plans devised to achieve the long-range objectives. He had responsibility for decisions respecting the type of business to be pursued by LaSalle, the manner in which it would be pursued, and LaSalle's investment decisions (Barton 1797).

Mr. Barton represented LaSalle on the National Home Study Council (hereinafter cited as NHSC) (Barton 1829-30). He signed and certified as correct the LaSalle Self-Evaluation Report (CX 327), which had been prepared for purposes of LaSalle's accreditation by that organization. Mr. Barton submitted the report to the NHSC (CX 327B). He was also responsible for implementing the changes in LaSalle recommended by the NHSC (Barton 1830).

26. In 1978, Alan L. Baker, Macmillan's Deputy Chief Operating Officer and Vice Chairman of the Board, received monthly financial and operations reports from LaSalle (CX 554-63, 565-79; see Finding 17). He related the results to Mr. Barton (Barton 1802-03). Before 1978, Mr. Barton had received monthly reports directly from LaSalle (CX 501-51; Barton 1802-04).

27. John Sadler, the Controller of LaSalle and its chief financial officer also acted as LaSalle's Chief Operating Officer in 1978 (Barton 1810-11; DeWerth 1838-39). Mr. Sadler, who received reports from LaSalle's Vice Presidents and other personnel, consolidated such reports and reported in turn to Alan L. Baker, Vice Chairman of the Board and Deputy Chief Operating Officer of Macmillan (Barton 1798; 1804).

28. In 1979, LaSalle hired Henry Broido to head up a continuing education group and to take responsibility for overall operations at LaSalle. Certain changes in the reporting relationships occurred at that time. Mr. Barton thereafter received monthly operations and financial reports from Mr. Broido (Barton 1820-21).

29. John Sadler, LaSalle's Controller and its chief financial officer (Barton 1810-11; DeWerth 1838-39) commenced [11]reporting

to Mr. Broido after the latter was employed by LaSalle (Barton 1820).

30. Charles B. Marshall, LaSalle's Vice-President for Education (Marshall 1887) had submitted monthly reports to Alan Baker, Macmillan's Vice Chairman of the Board and Deputy Chief Operating Officer through Mr. Sadler, the LaSalle Controller (CX 575-79; Marshall 1892-93). These written reports concerned educational services, regulatory and financial matters, personnel matters and extraordinary events (Marshall 1897-98). Subsequent to Mr. Broido's appointment in 1979, Mr. Marshall reported to him (Marshall 1892-93).

31. Calvin Israel, LaSalle's Vice-President and Field Sales Manager since 1972 (Israel 1987) had overall responsibility for the field sales operation (Israel 1988). Mr. Israel reported to Alan Baker, Macmillan's Vice Chairman of the Board and Deputy Chief Operating Officer through John Sadler, the LaSalle Controller (CX 565-74; Israel 1988). Previously, he had reported to Sadler's predecessors in the position of LaSalle's chief operating officer (Israel 1988).

32. Robert Cornwell, LaSalle's Vice-President for Advertising since 1973 had overall responsibility for advertising and mail order sales (Barton 1797; Cornwell 1867). Mr. Cornwell reported to Alan Baker, Macmillan's Vice Chairman of the Board and Deputy Chief Operating Officer with copies of the reports to John Sadler, who was LaSalle's Controller, and who also acted as LaSalle's Chief Operating Officer (CX 554-63; Cornwell 1868-69). Mr. Cornwell had channeled previous reports to Sadler's predecessors as LaSalle's Chief Operating Officer (Cornwell 1867-68). Beginning in 1979, he reported to Mr. Broido (Cornwell 1867).

33. David Hetzel was LaSalle's Vice-President for Student Relations from 1971 through 1977 (Hetzel 3063-64). Hetzel was responsible for the student relations department, enrollment department, clerical operations department, systems, purchasing, warehouse, shipping and receiving. The Student Relations Department was responsible for maintenance of student grade records, responses to student inquiries and complaints, providing study materials, and calculating tuition (Hetzel 3064-65).

34. Douglas Linde has been Assistant to the President of LaSalle and University Administrative Officer for over 10 years (Linde 1852-53). His responsibilities included liaison and filing of documents with various federal and state agencies, submission of license applications to state agencies, and handling of third-party inquiries relating to students (Linde 1853). Mr. Linde reported in the past to Mr. Sadler and to Mr. Sadler's predecessors as chief operating officer of LaSalle

(Linde 1855-57). His reports were written monthly activity reports covering his areas of responsibility [12](Linde 1855-57). Subsequently, he reported to Mr. Broido who took charge of LaSalle's operations in 1979 (Linde 1854-55).

35. Gordon DeWerth, Treasurer of Macmillan and Treasurer of LaSalle, had no direct reporting relationship at LaSalle; his reporting relationship was at Macmillan. As Treasurer of LaSalle, he reported to Mr. Kressler, the parent company's Senior Vice President of Finance (DeWerth 1836-37). His responsibilities at LaSalle were limited to cash management, insuring that LaSalle had sufficient cash to meet its requirements and that excess cash, when available, was loaned to Macmillan (DeWerth 1836).

### C. LaSalle Reports to Macmillan

36. Macmillan executives received, on a monthly basis, written activity reports from LaSalle's personnel respecting the ongoing operations of LaSalle (Barton 1803-05). Although the recipient of these reports has varied, since 1973 the chief operating officer at LaSalle has submitted the reports to either Mr. Barton directly or to Mr. Baker, who then prepared a monthly report on LaSalle's operations for Mr. Barton (Barton 1805). Using the information contained in these reports, Mr. Barton prepared reports, which contained information on LaSalle's operations, for Macmillan's Chairman of the Board. He also reported, orally, to the Macmillan Board of Directors (Barton 1805-06).

37. Macmillan kept apprised of LaSalle's financial condition through monthly financial statements submitted by Mr. Sadler to the accounting manager of Macmillan's corporate accounting department (DeWerth 1842). These financial statements were then incorporated into Macmillan's annual report to shareholders and into financial statements filed with the Securities and Exchange Commission (DeWerth 1842-43).

38. Additionally, Mr. DeWerth submitted a monthly report to Messrs. Hagel, Barton, Baker and Kressler covering long and short-term cash forecasting, special projects, and stock reports (DeWerth 1839-40). This report was prepared in both consolidated and subsidiary-by-subsiary form (DeWerth 1840-41).

39. LaSalle's executives prepared, on a yearly basis, a long-range plan which set forth, in both narrative and financial terms, LaSalle's business strategy for the succeeding five years (CX 425; Barton 1809-10). The long-range plan was a collective effort of LaSalle's management and was approved by Macmillan following discussions between

LaSalle's chief operating officer and Robert Barton and Alan Baker (Barton 1810-11). [13]

40. In addition to the long-range plan, LaSalle prepared an annual plan which expressed, in both narrative and financial terms, what LaSalle planned to do in any given year. The annual plan, an implementation of the strategy developed in the long-range plan, was approved by Macmillan after consultation between Messrs. Barton, Baker and LaSalle's chief operating officer (Barton 1809-11, 1813).

41. LaSalle executives have dealt directly with Macmillan executives on questions relating to LaSalle's operations. In 1978, for example, Mr. Baker went to LaSalle on three or four occasions and met with LaSalle's operating committee, composed of LaSalle's Vice-Presidents and Controller, to discuss their individual areas of responsibility (CX 3271; Cornwell 1874-75).

42. Mr. Baker asked Mr. Marshall, LaSalle's Vice-President for Education to prepare a report setting forth planning suggestions for future operations (Marshall 1894). The report, entitled "A Plan to Make LaSalle Profitable Beyond 1980" (CX 426), was reviewed by Mr. Baker and portions of the plan were implemented shortly thereafter (Marshall 1894-95). Additionally, Mr. Marshall consulted with Mr. Baker respecting a suggestion for a new course offering in medical-dental reception (Marshall 1893).

43. The following are examples of transactions where Macmillan's approval was required prior to action by LaSalle:

(a) The purchase of any capital asset costing more than \$100 (Barton 1806-07).

(b) A significant revision in an existing course (Barton 1807-09);

(c) Funding for development of new courses (Marshall 1953-54);

(d) Salaries for LaSalle personnel in excess of \$20,000 (Barton 1821);

(e) Borrowing of money by LaSalle (Barton 1813);

(f) Expenditures for advertising in excess of budgeted amounts (Cornwell 1870-71).

(g) Personnel changes involving high-level LaSalle executives (Barton 1832); and

(h) Execution of consent agreements with state or federal agencies, when such [14]agreements concern LaSalle's operations (Barton 1818-19).

#### D. Macmillan's Financial Responsibility for LaSalle

44. Since 1973 Macmillan has guaranteed the financial stability

and performance of LaSalle to the NHSC, state and federal accrediting agencies (CX 326A, 329K, 380, 381A, 382). In many instances, such assurance has been accompanied by a copy of Macmillan's annual report (CX 326A, 329K, 380, 381A, 382).

45. The importance of Macmillan's financial resources to LaSalle was reflected in LaSalle's application to the NHSC for accreditation renewal. In response to the question, "What do you consider to be your single greatest asset which has been most responsible for your growth?" LaSalle replied, in part:

... financial support from the parent corporation, Macmillan, Inc., America's largest educational/information/culture publishing congeneric.

(CX 281C, G; see also CX 425K). In the NHSC's summary of its accreditation committee findings, LaSalle was found to be "sheltered under the umbrella of the financially strong MacMillan, Inc." (CX 328I).

46. Macmillan established uniform accounting practices for itself and all of its subsidiaries (Barton 1815); its auditors, Deloitte, Haskins and Sells, audited Macmillan's books and those of every Macmillan subsidiary on a periodic basis. In those years when Deloitte, Haskins and Sells did not audit LaSalle's books, Macmillan's internal audit department conducted the audit (Barton 1815-16).

47. Macmillan filed a consolidated corporate income tax for all of its domestic subsidiaries and incorporated the financial statements submitted by LaSalle into its annual report and SEC filings (Barton 1816-17).

48. Macmillan established a common checking system in its name in Seattle, Washington, which was used by LaSalle and thirteen other subsidiaries to handle accounts payable (DeWerth 1844-45). LaSalle, which used the common checking system in the normal course of its business, submitted invoices for payment to the common accounts payable system (DeWerth 1844-[15]45). Macmillan issued the check to the vendor about two weeks later. LaSalle paid its vendors through the common checking system unless the check had to be issued in less than two weeks (DeWerth 1845). LaSalle used the Macmillan account to issue refunds to former LaSalle students (RX 688A, B).

49. Macmillan loaned money to LaSalle (Barton 1817; DeWerth 1843). LaSalle was not empowered to borrow money on its own behalf (Barton 1817). When LaSalle had an excess of cash, it loaned the sum to Macmillan and if LaSalle needed cash, it borrowed directly from

Macmillan. All Macmillan subsidiaries followed this practice (DeWerth 1843, 1850). No minimum amounts were involved in such transactions, which were set up on a demand arrangement, and ranged from a few thousand to several million dollars (DeWerth 1850).

#### E. Miscellaneous Indicia of Macmillan's Control over LaSalle

50. Employees of both Macmillan and LaSalle have often participated in the same benefit programs such as a pension plan (DeWerth 1848), a welfare benefits plan (RA 10), and a dental insurance plan (RA 11).

51. Macmillan and LaSalle shared computer facilities, which were located at LaSalle (Barton 1825).

52. LaSalle operated the Business Information Reference Service as part of its Successful Small Business program (CX 426NN). This service was basically identical to the Crowell Collier Reference Service, which was offered through a different subsidiary of Macmillan (CX 426NN), but Business Information Reference Service was operated by LaSalle (CX 426III) and used by LaSalle faculty members (CX 426KKK; see also CX 426JJJ).

53. The activity reports submitted by LaSalle executives to Robert Barton dealt with matters, such as, a lack of dental benefits booklets for LaSalle employees, a lost requisition for replacement of a secretary (CX 506D), plans for testing LaSalle radio advertisements using Macmillan air time credits (CX 550G), or minor changes in advertisements (CX 541).

54. Macmillan approval was required before LaSalle could discontinue marketing its courses through field sales representatives and make a major investment in a mail-order marketing program (Barton 1806-07).

55. Although LaSalle was responsible for establishing the compensation schedules for its sales representatives, Mr. Barton's prior approval was required (Barton 1826-27). [16]Significant changes in the sales commission structure also required approval by Macmillan (Barton 1806-07).

#### F. Macmillan's Power To Control the Practices of LaSalle

56. On March 23, 1977, Robert A. Barton, acting as President of Macmillan, sent a letter to the Indiana Private School Accrediting Commission, conveying Macmillan's guarantee, as LaSalle's corporate parent, for the full performance by LaSalle of its obligation to provide the educational services contemplated by LaSalle's contract

with each student previously or prospectively enrolled who remains in good standing (CX 383). The Board of Directors of Macmillan ratified Mr. Barton's letter in April 1977 (CX 384B).

57. Macmillan has the authority and power to direct the policies and practices of its subsidiary, LaSalle (Findings 14-56).

### III. Promotion, Marketing, and Sale of LaSalle Correspondence Courses

#### A. In General

58. Respondents disseminated advertisements in various publications of general circulation in order to obtain leads for the sale of their correspondence courses (Comp. Par. 3; LaSalle Ans. Par. 3). These publications included *T. V. Guide*, *American Home*, *Cosmopolitan*, *Mademoiselle*, *Glamour*, *Decorating Ideas*, and group publications such as the Fawcett Detective Group, Secret Romance Group, and Complete Men's Group (CX 1-65).

59. Until March 31, 1979, respondents used a field sales force dealing directly with the public to sell and market their correspondence courses (Israel 1988, 1990; Letter of respondents' counsel, dated December 14, 1978).

60. LaSalle relied upon its nationwide advertising to develop a market for its courses. Attached to each advertisement was an inquiry card, on which prospective students indicated their name, address, and course of interest (CX 1-[17]65). The inquiry cards were converted into "blue leads" which contained the prospective student's name, address, and course of interest (CX 151U; RX 101C). The leads were distributed to sales representatives through their regional or district managers (CX 151H; RX 101C, 102D, 103D). Blue leads (RX 224) were the sales representatives' primary source for identifying prospective students (Werner 2795-97).

61. Sales representatives were also responsible for obtaining "personally developed" leads, referred to as "PD's" (CX 151V; RX 101C, 102D, 103D). Similarly, leads were developed through LaSalle's Goodwill Club (CX 151H, V; RX 101C) and through contacts with corporations (Werner 2797).

62. In addition to accepting applications submitted by its field sales force, LaSalle accepted enrollments through a mail-order procedure (CX 327UUUU-VVVV, 425X; Berry 2338-40; Brooks 2679; Miller 2922; Visser 2941). LaSalle had used a direct mail order sales solicitation program at sometime prior to 1977, which it discontinued because it was unsuccessful (CX 528B).

63. After receipt of an inquiry, detached from one of its advertise-

ments, LaSalle, in addition to preparing and distributing a blue lead card to its sales representatives, sent a brochure to the prospective student describing the course in which the student had expressed an interest (CX 151W, 327BBBBB). The brochures were accompanied by a cover letter informing the prospective student that a LaSalle sales representative would call on him personally (CX 101-08; 115-19; 151W, X, 167C). As a general rule, prospective students received such brochures in the mail prior to contact with the sales representative (CX 153MM).

1. Respondents' Field Sales Force

64. In the period 1975-1978, the LaSalle field force ranged from 1000 to 108 individuals; the sales force diminished toward the end of that period (Israel 1989; CX 327DDDDD). In 1975, about 500 of the sales representatives received at least one enrollment in any given week (CX 327DDDDD).

65. The LaSalle representatives were paid commissions for enrollments secured. The compensation schedule as set forth in the 1976 Representatives Manual was the following:

The three commission amounts paid are:

- Enrollment commission - You will be paid \$70.00 for each student you enroll whose application [18]is accepted and processed in the home office. This commission will be paid on all courses; there are no exceptions.
- 30-day service commission - You will be paid \$25.00 for each 30-day callback you make in person. The callback must be made on time, the student's tuition payment must be current and the Records Confirmation Slip must be received and processed by the home office on schedule.
- PD enrollment commission - You are paid \$25.00 for each PD enrollment which is paid to date at 90 days. This means the first three monthly payments must have been submitted on time.

66. The enrollment commission was received from the first payment remitted by the student. When a student did not pay the tuition agreed upon in the Retail Installment Contract, LaSalle would recover part or all of the commission already paid to the salesman under a "chargeback" or repayment of the commission (CX 151DDD).

67. If a student remained enrolled in a course for more than 90 days and his payments were current at the end of that period, the representative would not lose any of his commission if the student dropped out at that point (RX 103G; Werner 2822).

68. The number of enrollments was a major factor in a sales representatives' earnings (Werner 2823-24).

69. In 1971, LaSalle instituted a Graduation Bonus Plan under which a representative received a 50 percent bonus for all enrollees who graduated. This program, however, was discontinued in 1975 (CX 327FFFFFF; Werner 2821-22). Respondent also had a quality bonus to reward representatives who secured better studying and paying students (CX 327FFFFFF).

70. LaSalle representatives were expected to maintain a high conversion rate on leads generated by advertising because [19]they represented a major expense item. Respondents informed their representatives "We expect new representatives to sign up at least one person in ten; some experienced representatives sign up two or three out of ten" (CX 151H).

71. LaSalle's representatives were subject to immediate termination for cause such as dishonesty, misconduct and misrepresentation. In addition, representatives, except under unusual circumstances, were terminated if they failed to submit at least one application in a 30-day period (CX 327GGGGG).

72. The turnover rate for respondents' sales representatives was high. Approximately 75 percent of the active sales representatives were employed less than one year (CX 328, Report of Accrediting Examining Committee, National Home Study Council submitted December 2, 1975).

73. LaSalle stopped sending leads to its representatives in December 1978. It continued to process and accept enrollments obtained by representatives without leads until March 31, 1979. On that date, the remaining representatives were terminated (CX 327UUUU; Marshall 1907; Werner 2793; Finding 59).

#### B. The Sales Presentation

74. Generally, sales representatives established initial contact

with the student by telephone (CX 514B; Mull 329-30; Shulock 362; Muhar 446; Waller 657-58; Mastrangelo 752; Wilmot 795-96; Lapeer 837; Nehls 864; Kammer 887-88; Reed 1571; Deet 1686; Patrone 1754; Wilson 3271; Sellers 3258-59; Kohlmyer 3338; Ostland 3489; Burritt 3625-26).

75. LaSalle representatives did not enroll applicants. Enrollment was done by the Home Office. Sales representatives were instructed to interview applicants to see if they qualified in terms of having the time, money, and motivation to study and succeed, fill out an enrollment contract and secure a down payment (CX 168R).

76. LaSalle's sales representatives were trained and instructed to use a standard sales presentation "The Qualifying Interview" (CX 151K, 153F, 154, 168D). "Practically the entire interview is a readoff from printed materials plus a few passages to be memorized" (CX 153C). The sales presentation did not require a knowledge of the subject matter of the courses (CX 328U).

77. The LaSalle sales representatives were instructed that:

The Qualifying Interview is a field proven technique which lets you take control of the interview and keep control of it. The [20]qualifying format insures an orderly step by step presentation that takes you from the applicant's door, through the presentation and brings you to filling out the enrollment contract and Congratulatory Talk. The LaSalle Method enables you to eliminate costly digressions or sidetracks and answers most of the applicant's questions before they're asked.

Through the use of a printed Qualification Questionnaire and an all-course Visual you can quickly learn how to conduct a Qualifying Interview. With practice you'll deliver it skillfully each and every time.

. . . Each step is vital to the success of your presentation. Failure to adhere to this method usually results in poor quality enrollments. To maximize your time and efforts learn each step in the Qualifying Interview well.

(CX 168D)

78. LaSalle's standard sales presentation consisted of five parts: prescreening or greeting the prospect, intensive qualification, visual presentation, the close, and the after sale or congratulatory talk (CX 154, 168D; RX 101D, 102D, 103D, 133D).

79. Respondents' sales representatives were instructed to memorize the following pre-screening talk:

Mr. Miller, in the short time I have to spend with you, I'd like to speak with both you and Mrs. Miller. May we be seated at a table please?

As I said, Mr. & Mrs. Miller, I'm the local representative of LaSalle Extension University. I'm here in response to your inquiry about self-improvement. To begin, I want to be sure that we have a program that is right for you, Mr. Miller, and that you

are right for the program. As a leading [21]correspondence school, LaSalle will only accept students who can benefit from its program of study. To determine whether you can benefit, Mr. Miller, we'll be discussing your reasons for wanting more education and your desire and ability to study and succeed.

(CX 168D)

The purpose of the pre-screening talk was to put the student on notice that he had to qualify for admission to the LaSalle Program and that acceptance was not automatic (CX 153L; 168E).

80. The heart of the sales presentation was the "intensive qualification". This part of the presentation was conducted by means of LaSalle's "Confidential Qualification Questionnaire." The purpose of the questionnaire was to help the sales representative discover the applicant's needs, character, capabilities, financial means, and whether the applicant qualified for enrollment (CX 168I; Wilmot 797-08, 803-08). Sales representatives were further instructed that "The QQ [Qualifications Questionnaire] is a powerful tool in the hands of a person [respondent's salesman] who has learned to use it for all its worth" (CX 153 O). The Qualification Questionnaire, according to respondents' directions could also be used to meet "objections and stalls what may come up later at the close" (CX 153 O).

81. After the intensive qualification, the sales representative used a visual presentation to describe the course content, the advantages of home study and LaSalle (Wilmot 810-14; CX 153F, MM, NN, 157, 168R). The brochure received by the prospective student prior to the sales presentation was used by LaSalle's representatives to supplement the material in their sales binder (CX 153MM, 157; Shulock 373-76).

82. The next step of the sales presentation was the "close" (CX 153QQ). LaSalle instructed the sales representative to use an "assumptive close" namely assume the prospect is ready to fill out the enrollment application, sign a contract, and make a down payment (CX 153SS). If a prospect appeared hesitant at this point, the sales representative was to go back to key questions and answers elicited in the "intensive qualification" in order to meet objections (CX 153BBB-CCC).

83. After concluding the sale, LaSalle's sales representatives were instructed to give an after sales talk congratulating the prospect on his decision "to reinforce the sale" "And help keep it sold" (CX 153EEE, 154D, U, 168Q). The student was told he had three obligations: to study and succeed, to provide his family with a better

way of life, and to submit his tuition payment on time (CX 153EEE, 168R). [22]

#### 1. The Retail Installment Contract

84. The retail installment contract or field enrollment form/contract used by LaSalle was a two-part document. The field representatives were instructed to leave a carbon copy with the prospective student. In the case of a mail order enrollment, a duplicate of the original was returned to the student upon enrollment acceptance (CX 327VVVV).

85. LaSalle's "Federal" retail installment contract incorporated federal, Illinois, and NHSC requirements and LaSalle policies. It was used, according to respondents, where those requirements were more to the student's benefit than the applicable state regulations. The other contract forms bearing the names of particular states were used because the regulation of that state required some specific language or because the state regulations, according to respondents, were more beneficial to the student than the federal regulation (CX 327VVVV).

86. The mail order forms complied with the regulations of the State of Illinois, where LaSalle was domiciled (CX 327VVVV).

87. The "Federal" form of the Retail Installment Contract was the one most widely used (Martins 2668).

### IV. Representations Made by LaSalle in Marketing Its Course

#### A. Success through LaSalle Theme

88. The major theme that permeated LaSalle's communications and representations to the public was the potential for success generated through completing a LaSalle course—the promise of higher salaries and future opportunities. This success through LaSalle theme was repeatedly expressed in LaSalle's advertising, which consisted of both combination advertisements and advertisements focusing on individual courses, its course literature, its brochures, and orally by its sales representatives.

89. Respondents' advertisements relied heavily on endorsements by satisfied LaSalle graduates to convey the success through LaSalle theme (CX 8A, 32, 559D, 577). These testimonials created the impression that such success was ordinary and typical of LaSalle graduates. [23]

90. LaSalle's print advertisements frequently covered not only individual courses, but a number of courses (CX 3-5, 10-25, 34-46,

116, 557). When testimonials were used in conjunction with combination ads, they conveyed the impression that the reader could be as successful as the person in the testimonials by enrolling in any one of the courses featured in the combination ad.

91. In combination with representations that the LaSalle diploma was a "recognized" or "useful credential" and that the diploma was evidence that a graduate of a LaSalle course had been "thoroughly prepared" by "one of America's most respected schools" (CX 101I, S, 103I, 104I, S, 105M), the testimonials created the impression that the LaSalle graduate needed no further training to enter the field of his choice.

### B. Interior Decorating

92. LaSalle's advertisements regarding their complete interior decorating course appealed to women to put their "Love for decorating into a dream career" (CX 6B, 8A). Reiterating the basic theme of success through LaSalle, LaSalle advertisements billed interior decorating as "a high-income field where a woman is in her glory. There is a good demand for decorating services and opportunities are abundant" (CX 29).

#### 1. LaSalle Represented There Was a Need or Demand for LaSalle Graduates in the Field of Interior Decorating

93. LaSalle represented that there was a demand for LaSalle graduates in the field of interior decorating. LaSalle advertisements contained such statements as:

There is a good demand for decorating services and opportunities are abundant. . . . A tremendously expanded field (CX 29).

94. Representations such as these coupled with statements such as:

I have now opened a studio . . . and I am already getting demands for interior decorating services (CX 711A). [24]

LaSalle's interior decorating course gives you complete, up-to-date instruction at home (CX 6B, 32).

The LaSalle course in Interior Decorating has been prepared to give you practical, complete and up-to-date preparation for this exciting career (CX 29).

which created the impression that the LaSalle graduate was a trained interior decorator, resulted in the impression that there was

a need or demand for LaSalle graduates in the field of interior decorating.

95. After the initial contact with LaSalle through its advertising, the prospective student received a course brochure which further outlined the benefits of the particular LaSalle course. "Your Future in Interior Decorating" was the title of the two brochures used to illustrate the success possible with LaSalle's interior decorating course (CX 101, 104). A headline in CX 101C characterized interior decorating as "a vastly expanded field where you can turn your creativity into profit." The text of both brochures represented that there was an increasing need or demand for interior decorators.

Opportunities for trained decorators are increasing each year. It used to be that only the wealthy employed decorators. That's no longer true. Large numbers of average homemakers now rely on the services of decorators. . . .

Decorators today are busy in many areas besides homes. Their talents are employed in decorating hotel rooms, business offices, building lobbies, hospitals and many other interesting places. Some decorators operate their own businesses; others work in major stores, showrooms and design studios. (CX 101C)

Opportunities for trained decorators are increasing each year. Their talents are employed in decorating hotel rooms, business [25]offices, building lobbies, hospitals and many other interesting places. Some decorators operate their own businesses; others work in major stores, showrooms and design studios. (CX 104C)

96. The impression was created in the first few pages of the brochure that there was a demand for interior decorators; the remainder of the brochure, dedicated to showing the prospective student how LaSalle trains him to be an interior decorator, created the impression that the LaSalle trained graduate would be qualified to enter this expanding field.

How LaSalle training prepares you for a career as an Interior Decorator (CX 101I; see also CX 104I).

If you want to start an exciting career as an interior decorator, LaSalle will prepare you for it in a home study program that is both practical and delightful (CX 101M).

These representations in conjunction with and as an integral part of the LaSalle presentation, which included the representations that there was a substantial need or demand for interior decorators, created the impression that there was a substantial need or demand for LaSalle graduates in the field of interior decorating.

97. LaSalle's sales representatives were instructed to repeat the employment opportunity claims made in LaSalle's brochures; they were not to make any representations of their own contrivance (RX

208

Initial Decision

102G, 128B). Student testimony indicates that such claims were repeated.

Q. Did she describe what career opportunities might be available to you in interior decorating?

A. Yes.

Q. What did she say?

A. That you could go into many areas, such as working for a furniture [26]store, become a buyer for department stores, an interior decorator, whatever appealed to you (Haselden 2196).

98. The continued repetition in LaSalle's advertisements, brochures, and orally by its sales representatives of the need or demand for interior decorators coupled with the representation that the LaSalle course offered complete training had the capacity to convey to prospective students that there was a need or demand for LaSalle interior decorating graduates.

## 2. LaSalle Represented That Its Interior Decorating Graduates Would Increase Their Earnings

99. In a number of ways LaSalle's advertisements created the impression that students completing respondent's correspondence courses would receive high wages or salaries from employment as interior decorators. The advertisements boldly stated that whatever your assignment as an interior decorator "you'll be well paid for it" (CX 6A, 8A) and "a decorator earns good money for work she enjoys" (CX 32). Testimonials from graduates of the LaSalle course were also included in some advertisements and appeared to substantiate the success through LaSalle theme. These graduates attested to increased earning power:

**Mrs. Faye C. Haynie**  
Benton, Kentucky

Now I feel like Onassis when I compare my earnings with what I used to make (CX 559D).

I feel rich when I compare my earnings with what I once used to earn (CX 8A, 32).

**Lucy Kovesi, Town Gallery**  
New York, New York

LaSalle training helped me develop my own successful gallery of art for decoration. I've enjoyed increased earnings and prestige (CX 6B, 7B, 8B). [27]

In other advertisements successful graduates were used as examples of the increased earnings made possible by a LaSalle diploma in

interior decorating. Mrs. Faye C. Haynie's success story of markedly increased earnings is featured repeatedly in advertisements (CX 6A, 7A-B, 8A-B, 30A-B, 31, 740). Other examples were used such as Susan Wilson, Opelika, Alabama (CX 33) and Sara P. Hendren, Indianapolis, Indiana (CX 711B) whose salaries were reported as having doubled.

100. LaSalle's advertisements implied a parallel between the individual in the success story and the individual reading the advertisement. Sometimes the parallel was expressly drawn as in CX 711B "These people have a lot in common with you" referring to the success story of Mrs. Haynie and that of Sara P. Hendren. Although in some instances there was language in the text of the advertisement which proposed to limit the scope of these success stories, the limiting language did not cancel out the effects of the testimonials which led the prospective student to believe that such success was ordinary and typical of LaSalle graduates.

101. For example in CX 33, which consisted of a number of testimonials from LaSalle interior decorating graduates from across the country, the caveat "An exceptional case, of course, but it does show how well some creative women can do when they develop their talents" is lost amid numerous testimonials and headlines proclaiming "The success of LaSalle graduates."

102. The course brochures used by LaSalle reiterated the promise of higher earnings:

A vastly expanded field where you can turn your creativity into profit (CX 101C).

103. The brochures also utilized testimonials from successful LaSalle graduates (CX 101R, 104R).

Your Interior Decorating course has given me many, many enjoyable and profitable hours.

Lorraine Howland  
Regina, Saskatchewan  
(7/11/77)

As an Interior Designer my salary has more than doubled. [28]

Janiene Church  
Lakeland, Florida  
(8/27/76)

(CX 104R)

My salary has doubled.

Linda Rae Kronberger

