

IN THE MATTER OF
**ISRAEL ZAVELOFF AND HARRY BERNSTEIN, TRADING
AS EVERLAST SUIT CASE & BAG COMPANY**

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

Docket 2887. Complaint, Aug. 4, 1936—Decision, Aug. 11, 1937

Where two partners engaged in manufacture of leather luggage, and in use in such manufacture of all four general types of leather employed in making leather luggage, namely, solid, top grain, and split leathers and buffin, and in sale and distribution of such leather luggage in commerce among the various States and in the District of Columbia, in substantial competition with those engaged in manufacture, sale, and distribution of leather goods in commerce, as above set forth, and including many competitors who sell leather luggage made from top grain, and also that made from split leather and properly describe former, as variously known by manufacturers, dealers, and purchasing public, as "cowhide," "genuine cowhide," "leather," "genuine leather," "warranted leather," and "top grain," and properly describe latter, as similarly generally known, as "split leather" luggage—

Labeled and branded their goods of split leather "WARRANTED GENUINE LEATHIER" or "WARRANTED LEATHIER," notwithstanding fact luggage in question, thus branded, was not made from outside or top side hide, or from top grain, as understood in trade and by purchasing public, but was made from split leather, i. e., lower portion of the hide from which top grain portion has been cut away;

With capacity and tendency to mislead and deceive purchasing public and substantial portion of trade into erroneous belief that their said luggage, thus branded and labeled, was made from top grain leather, for goods of which purchasing public has generally pronounced and distinct preference, and with result of placing in hands of wholesalers and retailers means whereby said luggage, made of split leather as above set forth, goods of which can be made to resemble those of the other in appearance, is passed off to purchasing public as top grain leather luggage, and consuming public purchased substantial volume of their aforesaid product, and trade was unfairly diverted to them from their competitors, likewise engaged in manufacture, sale and distribution of leather luggage, and who truthfully brand and represent kind of leather used in manufacture of their products; to the substantial injury of competition in commerce:

Held, That such acts and practices were to the prejudice of the public and competitors and constituted unfair methods of competition.

Before *Mr. John L. Hornor*, trial examiner.

Mr. DeWitt T. Puckett for the Commission.

Mr. Joseph D. Tarlowe, of New York City, for respondents.

COMPLAINT

Pursuant to the provisions of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission, having reason to believe that Israel Zaveloff and Harry Bernstein, copartners, trading and doing business under the firm name and style of Everlast Suit Case & Bag Company, hereinafter referred to as the respondents, have been and are using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to the said 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. Said respondents, Israel Zaveloff and Harry Bernstein, are copartners, trading and doing business under the firm name and style of Everlast Suit Case & Bag Company, and have their office and principal place of business at 130 Bleecker Street, in the city of New York and State of New York. Respondents are now, and for more than one year last past, have been engaged in the manufacture of leather luggage and in the sale and distribution of the same, in commerce, between and among the various States of the United States and the District of Columbia; causing said products, when sold, to be shipped from their place of business in the State of New York to purchasers thereof located in a State or States of the United States other than the State of New York.

PAR. 2. In the course and conduct of their business aforesaid, respondents are now and for more than one year last past have been in substantial competition with other corporations, individuals, partnerships, and firms engaged in the business of manufacturing and selling leather luggage in commerce between and among the various States of the United States and the District of Columbia.

PAR. 3. In the course and conduct of their business as aforesaid, respondents manufactured certain of their luggage from split cowhide leather, also described as the under or flesh side of the hide. Respondents place upon such luggage, and have done so during the period aforesaid, a conspicuous stamp or label reading "Warranted Genuine Leather." Said stamp or label represents and implies to the purchasing public that the material with which such luggage is covered is top grain leather, or as otherwise described, the outside or surface layer of the hide. Further, retailers are enabled by reason of said stamp or label, to mislead, deceive, and defraud the purchasing public as to the quality of the material with which such luggage is covered. Top grain leather is superior in quality, durability, and

Findings

25 F. T. C.

price to the split leather. The public generally believes the word leather to mean the top or hairy side of the hide.

There are among the competitors of respondents, as mentioned in paragraph 1 hereof, manufacturers of leather luggage who do not in any way misrepresent or falsely label their said merchandise.

PAR. 4. The above and foregoing representations, as shown by the label used by respondents, as described in paragraph 3, have the capacity and tendency to, and do mislead and deceive the purchasing public into the belief that the said luggage so labeled is manufactured from, or covered with, genuine top grain cowhide, and have the capacity and tendency to, and do induce the said purchasing public, acting in such erroneous belief, to purchase respondents' product, thereby diverting trade to the respondents from those of their competitors who do not misrepresent and falsely label their product, and in this manner respondents do substantial injury to competition in interstate commerce.

PAR. 5. The above acts and things done or caused to be done by the respondents were and are each and all to the prejudice of the public and of respondents' competitors, and constitute unfair methods of competition in interstate commerce within the meaning and intent of Section 5 of "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission, on August 4, 1936, issued and served its complaint in this proceeding upon respondents Israel Zaveloff and Harry Bernstein, copartners, doing business under the firm name of Everlast Suit Case & Bag Company, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said Act. After the issuance of said complaint, and the filing of respondents' answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by DeWitt T. Puckett, attorney for the Commission, before John L. Hornor, an examiner of the Commission, theretofore duly designated by it, and in opposition to the allegations of the complaint by Joseph D. Tarlowe, attorney for the respondent; and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on

for final hearing before the Commission on the said complaint, the answer thereto, testimony and other evidence, briefs in support of the complaint and in opposition thereto (no oral argument having been made); and the Commission having duly considered the same, and being now fully advised in the premises, finds that this proceeding is in the interest of the public, and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondents, Israel Zaveloff and Harry Bernstein, are copartners, trading as Everlast Suit Case & Bag Company at 130 West Bleeker Street, New York, N. Y.

For several years last past they have been engaged in the manufacture, sale and distribution of leather luggage in commerce between and among the various States of the United States and in the District of Columbia. Respondents' customers are located at points in the various States of the United States and in the District of Columbia, and respondents cause their said merchandise, when sold, to be transported from their place of business in New York, N. Y. to purchasers thereof in other States of the United States and in the District of Columbia, at their respective places of business.

At all times since respondents have been in said business, they have been in substantial competition with other individuals and partnerships, and with corporations likewise engaged in the manufacture, sale, and distribution, or in the sale and distribution of leather goods, in commerce, among and between the various States of the United States and in the District of Columbia.

PAR. 2. Four general types of leather employed in the manufacture of leather luggage are: solid leather, top grain leather, split leather, and buffin. Solid leather is the entire hide after it has been properly processed and made ready for use. Top grain leather is the top portion of the hide from which the hair has been removed and the under portion or that lying next to the flesh of the animal has been cut away. Buffin is a very thin lightweight leather which is removed from the very top or outside portion of the hide. Split leather is the lower portion of the hide which lies next to the flesh of the animal and from which the top grain portion has been cut away. The respondents use all four types of said leather in the manufacture of their luggage.

Respondents' split leather goods offered for sale and sold in interstate commerce are labeled and branded "WARRANTED GENU-

INE LEATHER" or "WARRANTED LEATHER." Respondents label and brand their top grain leather goods "TOP GRAIN."

The purchasing public generally and the trade understands the words "warranted leather," "genuine leather," or the word "leather," when used to describe luggage, to mean luggage manufactured from top grain leather.

PAR. 3. Many of respondents' competitors sell leather luggage manufactured from top grain leather and also from split leather. Said top grain leather is properly described by said competitors, and is variously known by manufacturers, dealers, and the purchasing public as "cowhide," "genuine cowhide," "leather," "genuine leather," "warranted leather," and "top grain." Said split leather luggage is properly described by said competitors, and is generally known by manufacturers, dealers, and the purchasing public, as "split leather" luggage.

The purchasing public generally has a pronounced and distinct preference for leather goods that are manufactured from top grain leather. Split leather goods can be made to resemble top grain leather in appearance and the purchasing public generally and a substantial portion of the trade cannot distinguish between split leather goods and top grain leather goods. As a result thereof, split leather goods are thus passed off as top grain leather goods.

PAR. 4. The descriptions, representations, stamps, and brands used by respondents in describing their split leather luggage are false and misleading in that said luggage branded as "WARRANTED GENUINE LEATHER" and "WARRANTED LEATHIER" is not made from the outside or top side of the hide, or what is understood in the trade and by the purchasing public as top grain, but are manufactured from split leather.

PAR. 5. The use by respondents of the descriptions, marks, and brands, set out in paragraph 2 hereof, to describe their split leather luggage, offered for sale and sold in interstate commerce, has had and does have the capacity and tendency to mislead and deceive the purchasing public and a substantial portion of the trade into the erroneous belief that the luggage so branded and labeled was made from top grain leather. By said practices, respondents also place in the hands of wholesalers and retailers the means whereby said luggage is passed off to the purchasing public as top grain leather luggage. As a direct consequence of the mistaken and erroneous beliefs induced by the false and misleading representations above referred to, the consuming public has purchased a substantial volume of respondents' luggage with the result that trade has been unfairly

diverted to the respondents from their competitors likewise engaged in the manufacture, sale, and distribution of leather luggage, who truthfully brand and represent the kind of leather used in the manufacture of their products. As a result thereof, substantial injury has been and is now being done by respondents to competition, in commerce, among and between the various States of the United States and in the District of Columbia.

CONCLUSION

The aforesaid acts and practices of the respondents, Israel Zaveloff and Harry Bernstein, trading as Everlast Suit Case & Bag Company, are to the prejudice of the public and respondents' competitors, and constitute unfair methods of competition in commerce, within the intent and meaning of Section 5 of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before John L. Hornor, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, and briefs filed herein (no oral argument having been made), and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of an Act of Congress approved September 26, 1914, entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

It is ordered, That the respondents, Israel Zaveloff and Harry Bernstein, individually or trading as Everlast Suit Case & Bag Company, or under any other trade name, their representatives, agents, servants, and employees, in connection with the offering for sale, sale, and distribution of luggage in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

Representing, through the use of the words "genuine leather" or "leather" or any other word or words of similar import and effect, alone or in conjunction with other words, stamped or imprinted on labels or on the luggage itself, or in any other manner, that luggage manufactured in whole or in part from the underlayers or flesh side of hides, known as split leather, is made from the outside layer of the hide.

Order

25 F. T. C.

It is further ordered, That the respondent shall, within 60 days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Syllabus

IN THE MATTER OF

E. I. DONAHUE, INDIVIDUALLY AND TRADING AS
DONAHUE ADVERTISING COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3180. Complaint, July 21, 1937—Decision, Aug. 11, 1937*

Where an individual engaged in sale and distribution of various articles of merchandise, including, among others, electric clocks, kitchen cutlery sets, tableware sets, hostess tray sets and grill, vacuum coffee sets, and other articles, in commerce among the various States—

Furnished various devices and plans of merchandising which involved operation of gift enterprises or lottery schemes and distribution of his said merchandise to ultimate consumers wholly by lot or chance, and consisted of variety of push cards for sale and distribution, substantially, under a plan or method, and in accordance with said cards' explanatory legends, by which prospective purchasers selecting one of a variety of girls' names displayed on card paid up to certain maximum amount in accordance with number disclosed under name selected, and received article of merchandise being thus disposed of, or nothing other than privilege of undertaking such chance selection, in accordance with their success or failure in selecting name corresponding to that concealed under card's master seal, and under which person, salesman, agent or representative soliciting purchases of chances was similarly compensated, after completing sales thereof, by receipt of article of merchandise without further charge or additional service, and thereby supplied to and placed in the hands of others the means of conducting lotteries in the sale of his merchandise, in accordance with such sales plan as hereinabove set forth, in violation of public policy long recognized in the common law and criminal statutes and contrary to an established public policy of the United States Government, and in competition with many who make or sell merchandise as above described but are unwilling to adopt and use said or any method involving game of chance or sale of a chance to win something by chance or any other method contrary to public policy, and refrain therefrom;

With result that many persons were attracted by his said methods and element of chance involved in sale in manner above described, and were thereby induced to buy and sell his said merchandise in preference to that offered and sold by said competitors who do not use same or equivalent methods, and with effect, by reason of said game of chance, of diverting trade and custom to him from his said competitors who do not use same or equivalent methods:

Held, That such acts and practices were to the prejudice of the public and competitors and constituted unfair methods of competition.

Mr. Henry C. Lank and Mr. P. C. Kolinski for the Commission.

COMPLAINT

Pursuant to the provisions of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission, having reason to believe that E. I. Donahue, individually and trading as Donahue Advertising Company, hereinafter referred to as respondent, has been and is using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to said 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 is an individual doing business under the trade name and style of Donahue Advertising Company, with his principal office and place of business located at 407 South Dearborn Street, Chicago, Ill. He is now, and for some time last past has been, engaged in the sale and distribution of various articles of merchandise, including, among others, electric clocks, kitchen cutlery sets, tableware sets, hostess tray sets and grill, vacuum coffee sets, roaster sets, smoking stands, ashtray combinations, and pen and pencil sets, in commerce between and among the various States of the United States. He causes and has caused said products when sold to be transported from his principal place of business in the State of Illinois to purchasers thereof in Illinois and in other States of the United States at their respective points of location. There is now, and has been for some time last past, a course of trade and commerce by said respondent in such merchandise as he is selling or distributing between and among the States of the United States. In the course and conduct of said business, respondent is in competition with other individuals and with partnerships and corporations engaged in the sale and distribution of similar or like articles of merchandise in commerce between and among the various States of the United States.

PAR. 2. In the course and conduct of his business, as described in paragraph 1 hereof, the respondent, in soliciting the sale of and in selling and distributing the said merchandise, has furnished various devices and plans of merchandising which involve the operation of gift enterprises or lottery schemes and a distribution of such merchandise to the ultimate consumers thereof wholly by lot or chance. Said devices or plans of merchandising consist of a variety of push cards, the use of which, in connection with the sale and delivery to the purchasing public by the method or plan suggested by respondent, was and is substantially as follows:

The said push cards bear a number of girls' names. Concealed under each name is a number. Also, under a master seal there is a name corresponding to one of the names on the card. Prospective purchasers select one of the names and remove the same disclosing the number thereunder. Persons selecting numbers from 1 to 29 pay in cents the amount of such number, and persons selecting numbers over 29 pay 29¢ for the privilege of selecting one of the names. The push cards bear various legends informing purchasers and prospective purchasers of the plan or method by which said push card is operated and by which the merchandise described thereon is to be distributed. When all the names have been purchased the master seal is removed, and the person who has selected the name corresponding to the name under the master seal receives the article of merchandise described without further charge, and the person, salesman, agent, or representative soliciting purchases of chances, as above described, also receives an article of merchandise without further charge or additional service. The numbers under the names are concealed from purchasers and prospective purchasers, and they do not know how much they will have to pay for the privilege of selecting one of the names until the selection has been made and the name removed. The name under the master seal is concealed from purchasers and prospective purchasers until all the names have been selected. Those customers selecting names which do not correspond to the name under the master seal receive nothing but the privilege of making a selection for the money which they pay. The said articles of merchandise vary in value, but each of said articles of merchandise is of a greater value than the cost of a single push from said push card. The various articles of merchandise are thus distributed to the purchasing public wholly by lot or chance, and the amount which the customers pay for a chance is determined wholly by lot or chance.

PAR. 3. The persons to whom respondent furnishes said devices use the same in purchasing, selling, and distributing respondent's merchandise in accordance with the aforesaid sales plan. Respondent thus supplies to and places in the hands of others the means of conducting lotteries in the sale of his merchandise in accordance with the sales plan hereinabove set forth. The use by respondent of said method in the sale of his merchandise, and the sale of such merchandise by and through the use thereof and by the aid of said method, is a practice of the sort which the common law and criminal statutes have long deemed contrary to public policy, and is contrary to an established public policy of the Government of the United States.

PAR. 4. The sale of merchandise to the purchasing public in the manner above alleged involves a game of chance or the sale of a chance to procure articles of merchandise at a price much less than the normal retail price thereof. Many persons, firms, and corporations who make or sell merchandise in competition with the respondent, as above alleged, are unwilling to adopt and use said method or any method involving a game of chance or the sale of a chance to win something by chance, or any other method that is contrary to public policy, and such competitors refrain therefrom. Many persons are attracted by respondent's said methods and by the element of chance involved in the sale thereof in the manner above described, and are thereby induced to buy and sell respondent's merchandise in preference to merchandise offered for sale and sold by said competitors of respondent who do not use the same or equivalent methods. The use of said method by respondent, because of said game of chance, has the tendency and capacity to, and does, divert trade and custom to respondent from his said competitors who do not use the same or equivalent methods.

PAR. 5. The aforesaid acts and practices of respondent are all to the injury and prejudice of the public and of respondent's competitors, and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission, on July 21, 1937, issued and on July 22, 1937, served its complaint in this proceeding upon respondent, E. I. Donahue, individually and trading as Donahue Advertising Company, charging him with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint, respondent filed answer thereto, dated July 28, 1937, admitting the facts as alleged in the said complaint to be true. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and answer thereto, and the Commission having duly considered the same and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent is an individual doing business under the trade name and style of Donahue Advertising Company, with his principal office and place of business located at 407 South Dearborn Street, Chicago, Ill. He is now, and for some time last past has been engaged in the sale and distribution of various articles of merchandise including, among others, electric clocks, kitchen cutlery sets, tableware sets, hostess tray sets and grill, vacuum coffee sets, roaster sets, smoking stands, ashtray combinations, and pen and pencil sets, in commerce between and among the various States of the United States. He causes and has caused said products when sold to be transported from his principal place of business in the State of Illinois to purchasers thereof in Illinois and in other States of the United States at their respective points of location. There is now, and has been for some time last past a course of trade and commerce by said respondent in such merchandise as he is selling or distributing between and among the States of the United States. In the course and conduct of said business, respondent is in competition with other individuals and with partnerships and corporations engaged in the sale and distribution of similar or like articles of merchandise in commerce between and among the various States of the United States.

PAR. 2. In the course and conduct of his business, as described in paragraph 1 hereof, the respondent in soliciting the sale of and in selling and distributing the said merchandise, has furnished various devices and plans of merchandising which involve the operation of gift enterprises or lottery schemes and a distribution of such merchandise to the ultimate consumers thereof wholly by lot or chance. Said devices or plans of merchandising consist of a variety of push-cards, the use of which, in connection with the sale and delivery to the purchasing public by the method or plan suggested by respondent, was and is substantially as follows:

The said push cards bear a number of girls' names. Concealed under each name is a number. Also, under a master seal there is a name corresponding to one of the names on the card. Prospective purchasers select one of the names and remove the same disclosing the number thereunder. Persons selecting numbers from 1 to 29 pay in cents the amount of such number, and persons selecting numbers over 29 pay 29¢ for the privilege of selecting one of the names. The push cards bear various legends informing purchasers and prospective purchasers of the plan or method by which said push card is operated and by which the merchandise described thereon is to be

Findings

25 F. T. C.

distributed. When all the names have been purchased the master seal is removed, and the person who has selected the name corresponding to the name under the master seal receives the article of merchandise described without further charge, and the person, salesman, agent, or representative soliciting purchases of chances, as above described, also receives an article of merchandise without further charge or additional service. The numbers under the names are concealed from purchasers and prospective purchasers, and they do not know how much they will have to pay for the privilege of selecting one of the names until the selection has been made and the name removed. The name under the master seal is concealed from purchasers and prospective purchasers until all the names have been selected. Those customers selecting names which do not correspond to the name under the master seal receive nothing but the privilege of making a selection for the money which they pay. The said articles of merchandise vary in value, but each of said articles of merchandise is of a greater value than the cost of a single push from said push card. The various articles of merchandise are thus distributed to the purchasing public wholly by lot or chance, and the amount which the customers pay for a chance is determined wholly by lot or chance.

PAR. 3. The persons to whom respondent furnishes said devices use the same in purchasing, selling, and distributing respondent's merchandise in accordance with the aforesaid sales plan. Respondent thus supplies to and places in the hands of others the means of conducting lotteries in the sale of his merchandise in accordance with the sales plan hereinabove set forth. The use by respondent of said method in the sale of his merchandise and the sale of such merchandise by and through the use thereof and by the aid of said method, is a practice of the sort which the common law and criminal statutes have long deemed contrary to public policy, and is contrary to an established public policy of the Government of the United States.

PAR. 4. The sale of merchandise to the purchasing public in the manner above found involves a game of chance or the sale of a chance to procure articles of merchandise at a price much less than the normal retail price thereof. Many persons, firms, and corporations who make or sell merchandise in competition with the respondent, as above described, are unwilling to adopt and use said method or any method involving a game of chance or the sale of a chance to win something by chance, or any other method that is contrary to public policy, and such competitors refrain therefrom. Many persons are attracted by respondent's said methods and by the element of chance involved in the sale thereof in the manner above described,

749

Order

and are thereby induced to buy and sell respondent's merchandise in preference to merchandise offered for sale and sold by said competitors of respondent who do not use the same or equivalent methods. The use of said method by respondent, because of said game of chance, has the tendency and capacity to, and does, divert trade and custom to respondent from his said competitors who do not use the same or equivalent methods.

CONCLUSION

The aforesaid acts and practices of the respondent, E. I. Donahue, individually and trading as Donahue Advertising Company, are to the prejudice of the public and of respondent's competitors, and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission on the complaint of the Commission and the answer of the respondent dated July 28, 1937, admitting the facts as set forth in the complaint to be true, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes",

It is ordered, That the respondent E. I. Donahue, individually and trading as Donahue Advertising Company, his agents, representatives, and employees, in connection with the offering for sale, sale and distribution of merchandise in interstate commerce, do forthwith cease and desist from:

1. Supplying to or placing in the hands of others push cards or similar devices for the purpose of enabling such persons to dispose of or sell such merchandise by the use thereof.

2. Mailing, shipping or transporting to members of the public push cards or similar devices so prepared or printed as to enable said persons to sell or distribute such merchandise by the use thereof.

3. Selling or otherwise disposing of merchandise by the use of push cards or similar devices.

4. In any manner, selling or otherwise disposing of merchandise, free of charge, or at varying prices, depending upon lot or chance.

Order

25 F. T. C.

It is further ordered, That the respondent E. I. Donahue, individually and trading as Donahue Advertising Company, shall, within 30 days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist hereinabove set forth.

CARLTON SALES CO.

757

Syllabus