

## Syllabus

## IN THE MATTER OF

## LOUIS GREENBERG, TRADING AS RELIANCE JACKET CO.

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

*Docket 4349. Complaint, Oct. 15, 1940—Decision, Mar. 19, 1941*

Where an individual engaged in competitive interstate sale and distribution of sports jackets and other articles of merchandise; in soliciting sale of and in selling and distributing his products—

Furnished various devices and plans of merchandising which involved the operation of games of chance, gift enterprises, or lottery schemes when said merchandise was sold and distributed to ultimate consumers thereof, and distribution to operators and purchasing public of certain literature and instructions, including push cards, order blanks, illustrations of his said merchandise, and circulars explaining his plan of selling same and of allotting it as premiums or prizes to operators of said cards and to purchasing and consuming public, and included, as typical, plan providing, as explained on said card, that person selecting by chance from list set forth on card, the feminine name corresponding to that concealed under master seal, received outing jacket or other article of merchandise being thus disposed of, and under which amount paid was dependent upon number disclosed in disk pertaining to particular name selected, others receiving nothing for their money; and thereby

Supplied to and placed in the hands of others means of conducting lotteries in sale of his merchandise by those to whom he furnished such cards, and who made use thereof in selling and distributing his said products in accordance with such sales plan, involving a game of chance to procure one of said articles of merchandise at price much less than normal retail price thereof, and under which fact as to whether purchaser received an article of merchandise or nothing for amount of money paid was determined wholly by lot, contrary to an established public policy of the United States Government and in violation of criminal laws, and in competition with many who are unwilling to use said or any method involving game of chance or any other method contrary to public policy, and refrain therefrom;

With the result that many persons were attracted by said sales plan or method and by element of chance involved therein, and were thereby induced to buy and sell his said merchandise in preference to that offered and sold by his said competitors who do not use same or equivalent method, and with tendency and capacity unfairly to divert trade in commerce to him from his said competitors;

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

## Complaint

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Before *Mr. W. W. Sheppard*, trial examiner.

*Mr. L. P. Allen, Jr.*, for the Commission.

*Gainsley, Goldstein & Levitt*, of Minneapolis, Minn., for respondent.

## 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 Louis Greenberg, individually and trading as Reliance Jacket Co., hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Louis Greenberg, is an individual trading as Reliance Jacket Co., with his principal office and place of business located at 306 South Seventh Street, Minneapolis, Minn. The respondent is now and for more than 1 year last past has been engaged in the sale and distribution of sports jackets and other articles of merchandise. Respondent causes and has caused said merchandise, when sold, to be transported from his aforesaid place of business in the State of Minnesota to purchasers thereof at their respective points of location in the various States of the United States other than Minnesota and in the District of Columbia. There is now and has been for more than one year last past a course of trade by respondent in such merchandise in commerce between and among the various States of the United States and in the District of Columbia. In the course and conduct of his business, respondent is and has been in competition with other individuals and with partnerships and corporations engaged in the sale and distribution of like or similar articles of merchandise in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of his business, as described in paragraph 1 hereof, respondent, in soliciting the sale of and in selling and distributing his merchandise, furnishes and has furnished various devices and plans of merchandising which involve the operation of games of chance, gift enterprises, or lottery schemes when said merchandise is sold and distributed to the ultimate consumer thereof. The method or sales plan adopted and used by respondent is substantially as follows:

Respondent distributes and has distributed to operators and the purchasing public certain literature and instructions, including among other things push cards, order blanks, illustrations of his said merchandise, and circulars explaining respondent's plan of selling merchandise and of allotting it as premiums or prizes to the operators of said push cards and to the purchasing and consuming public. One of respondent's push cards bears 47 feminine names with ruled columns on the face thereof for writing in the name of the customer opposite the feminine name selected. Said push card has 47 partially perforated disks on the face of which is printed the word "push." Each of such disks is set over one of the aforesaid feminine names. Concealed within each disk is a number which is disclosed only when the disk is pushed or separated from the card. The push card also has a large master seal, and concealed within the master seal is one of the feminine names appearing on the face of said card. The person selecting the feminine name corresponding to the one under the master seal receives a sport jacket. The push card bears a legend or instructions as follows:

New Style

Leather and  
100 Per Cent  
All-Wool

OUTING JACKET

In Men's or Ladies' Styles

Illustration and Description on Back of Card

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Numbers 11 to 29—Pay What You Draw  
Numbers over 29—Pay Only 29¢

(Total \$11.92)

Sales of respondent's merchandise by means of said push cards are made in accordance with the above-described legend or instructions. Said prizes or premiums are allotted to the customers or purchasers in accordance with the above-described legend or instructions. The fact as to whether a purchaser receives an article of merchandise or nothing for the amount of money paid, is thus determined wholly by lot or chance.

Respondent furnishes and has furnished various other push cards accompanied by order blanks, instructions and other printed matter for use in the sale and distribution of his merchandise by means of a game of chance, gift enterprise, or lottery scheme. The sales plan or method involved in the sale of all of said merchandise by means

of said other push cards is the same as that hereinabove described, varying only in detail.

PAR. 3. The persons to whom respondent furnishes, and has furnished, the said push cards use the same in purchasing, selling, and distributing respondent's merchandise in accordance with the afore-said 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 sales plan or method in the sale of his merchandise and the sale of said merchandise by and through the use thereof and by the aid of said sales plan or method is a practice of a sort which is contrary to an established public policy of the Government of the United States and in violation of criminal laws.

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 one of the said articles of merchandise at a price much less than the normal retail price thereof. Many persons, firms, and corporations who sell or distribute 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 said sales plan or method employed by respondent in the sale and distribution of his merchandise and the element of chance involved therein, and thereby are 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 an equivalent method. The use of said method by respondent, because of said game of chance, has a tendency and capacity to, and does, unfairly divert trade in commerce between and among the various States of the United States and in the District of Columbia to respondent from his said competitors who do not use the same or an equivalent method. As a result thereof, substantial injury is being, and has been, done by respondent to competition in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 5. The aforesaid acts and practices of respondent, as herein alleged, are all to the prejudice and injury of the public and of respondent's competitors and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in

commerce within the intent and meaning of the Federal Trade Commission Act.

#### REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on October 15, 1940, issued and on October 17, 1940, served its complaint in this proceeding upon respondent Louis Greenberg, individually and trading as Reliance Jacket Co., charging him with the use of unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts, which substitute answer was filed in the office of the Commission. Thereafter this proceeding regularly came on for final hearing before the Commission on the said complaint and substitute answer and the Commission having duly considered the matter 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, Louis Greenberg, is an individual trading as Reliance Jacket Co., with his principal office and place of business located at 306 South Seventh Street, Minneapolis, Minn. The respondent is now and for more than 1 year last past has been engaged in the sale and distribution of sports jackets and other articles of merchandise. Respondent causes and has caused said merchandise, when sold, to be transported from his aforesaid place of business in the State of Minnesota to purchasers thereof at their respective points of location in the various States of the United States other than Minnesota and in the District of Columbia. There is now and has been for more than 1 year last past a course of trade by respondent in such merchandise in commerce between and among the various States of the United States and in the District of Columbia. In the course and conduct of his business, respondent is and has been in competition with other individuals and with partnerships and corporations engaged in the sale and distribution of like or similar articles of merchandise in

## Findings

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commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of his business, as described in paragraph 1 hereof, respondent, in soliciting the sale of and in selling and distributing his merchandise, furnishes and has furnished various devices and plans of merchandising which involve the operation of games of chance, gift enterprises, or lottery schemes when said merchandise is sold and distributed to the ultimate consumer thereof. The method or sales plan adopted and used by respondent is substantially as follows:

Respondent distributes and has distributed to operators and the purchasing public certain literature and instructions, including among other things push cards, order blanks, illustrations of his said merchandise and circulars explaining respondent's plan of selling merchandise and of allotting it as premiums or prizes to the operators of said push cards and to the purchasing and consuming public. One of respondent's push cards bears 47 feminine names with ruled columns on the face thereof for writing in the name of the customer opposite the feminine name selected. Said push card has 47 partially perforated disks on the face of which is printed the word "push." Each of such disks is set over one of the aforesaid feminine names. Concealed within each disk is a number which is disclosed only when the disk is pushed or separated from the card. The push card also has a large master seal, and concealed within the master seal is one of the feminine names appearing on the face of said card. The person selecting the feminine name corresponding to the one under the master seal receives a sport jacket. The push card bears a legend or instructions as follows:

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in accordance with the above-described legend or instructions. The fact as to whether a purchaser receives an article of merchandise or nothing for the amount of money paid, is thus determined wholly by lot or chance.

Respondent furnishes and has furnished various other push cards accompanied by order blanks, instructions, and other printed matter for use in the sale and distribution of his merchandise by means of a game of chance, gift enterprise, or lottery scheme. The sales plan or method involved in the sale of all of said merchandise by means of said other push cards is the same as that hereinabove described, varying only in detail.

PAR. 3. The persons to whom respondent furnishes, and has furnished, the said push cards use the same in purchasing, selling, and distributing respondent's merchandise in accordance with the afore-said 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 sales plan or method in the sale of his merchandise and the sale of said merchandise by and through the use thereof and by the aid of said sales plan or method is a practice of a sort which is contrary to an established public policy of the Government of the United States and in violation of criminal laws.

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 one of the said articles of merchandise at a price much less than the normal retail price thereof. Many persons, firms, and corporations who sell or distribute merchandise in competition with the respondent, as above found, 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 said sales plan or method employed by respondent in the sale and distribution of his merchandise and the element of chance involved therein, and thereby are 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 an equivalent method. The use of said method by respondent, because of said game of chance, has a tendency and capacity to, and does, unfairly divert trade in commerce between and among the various States of the United States and in the District of Columbia to respondent from his said competitors who do not use the same or an equivalent method.

Order

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## CONCLUSION

The aforesaid acts and practices of respondent, as herein found, are all to the prejudice and injury of the public and of respondent's competitors and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

## ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent in which answer respondent admits all the material allegations of fact set forth in said complaint and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

*It is ordered*, That the respondent, Louis Greenberg, individually and trading as Reliance Jacket Co., or trading under any other name or names, his representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, and distribution of sports jackets or any other merchandise in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Supplying to or placing in the hands of others any merchandise together with punchboards, push or pull cards, or other lottery devices, which said punchboards, push or pull cards, or other lottery devices are to be used, or may be used, in selling or distributing such merchandise to the public.

2. Supplying to or placing in the hands of others, punchboards, push or pull cards, or other lottery devices, either with assortments of merchandise or separately, which said punchboards, push or pull cards, or other lottery devices, are to be used, or may be used, in selling or distributing such merchandise to the public.

3. Selling or otherwise disposing of any merchandise by means of a game of chance, gift enterprise, or lottery scheme.

*It is further ordered*, That the respondent shall within 60 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 this order.

Syllabus

IN THE MATTER OF

CONSOLIDATED BOOK PUBLISHERS, INC.

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

*Docket 4440. Complaint, Dec. 31, 1940—Decision, Mar. 19, 1941*

Where a corporation engaged in the publication of its "Standard American Encyclopedia" and its "Universal Dictionary of the English Language," and in interstate sale and distribution thereof to newspapers and motion-picture theaters for use as premiums to stimulate circulation or attendance, to news agencies for resale to the trade, and to retailers for sale to the consuming public, and in preparing and furnishing advertising copy and mats to such customers for their use in circulars and other advertisements which it disseminated to the purchasing public throughout the various States—

- (a) Represented, directly and indirectly that the price at which said encyclopedia was offered was available to the public only because of its sponsorship by the American Home Library Foundation, which was a beneficent and educational institution, and that, but for such sponsorship the price would be much higher, through such statements as "How can we give you the Standard American Encyclopedia, almost as a gift? The answer is simple. The American Home Library Foundation is dedicated by its sponsors to the glorious task of placing within reach of every home in America good books that for all too long have been the privilege of only the wealthy \* \* \*";

Facts being price in question was not due to any subsidy from any beneficent or educational organization, said "Foundation" was not an organization dedicated to aforesaid "glorious task," but was an affiliated corporation which cooperated with it in the conduct of said business of selling encyclopedia in question for a profit and not for any beneficent or educational purpose, and price was not lower than it would be but for the activity of said "Foundation";

- (b) Represented, as aforesaid, that the volumes composing such encyclopedia were "huge" and that it was a "Giant" 15-volume home reference library, editorial cost of producing which was a million dollars, that the edition was "limited" and available only to those who ordered promptly and that the "de-luxe" edition was bound in leather of unusual beauty and durability;

Facts being statements and representations in question were false and misleading, the volumes were of ordinary size, neither number of volumes nor extent of content thereof were such as to entitle encyclopedia to be designated "Giant," its cost of production was not the sum above set forth, copies thereof were available for all potential purchasers, and "de luxe" edition was not made of leather, but of imitation thereof; and

- (c) Represented that its said dictionary was thoroughly new throughout and not a revised reproduction of an older publication, that the definitions of every word and phrase had been newly written, and that publication thereof, which took 12 years, was by or under the sponsorship of Oxford University;

Facts being it was not new throughout, but was an identical American publication of the dictionary first published in England in 1932 under same name by