

Order

32 F. T. C.

IN THE MATTER OF
CHARLES N. MILLER CO.
MODIFIED CEASE AND DESIST ORDER
Docket 2826. Order, May 14, 1941

Modified order, pursuant to provisions of Section 5 (i) of Federal Trade Commission Act, in proceeding in question, in which (1) Commission on November 14, 1936, 23 F. T. C. 886, issued its modified order prohibiting sale of candy by lottery schemes or devices; and (2) Circuit Court of Appeals for the First Circuit, on June 10, 1938, in *Federal Trade Commission v. Charles N. Miller Co.*, 97 F. (2d) 563, 27 F. T. C. 1678, rendered its opinion modifying aforesaid modified order of the Commission in certain particulars and affirming said modified order in other particulars—

Requiring respondent, its officers, etc., in the offering for sale, sale and distribution in interstate commerce of candy and candy products, to cease and desist from (1) selling, etc., to jobbers, etc., for resale to retailers, candy so packed and assembled that sales thereof to the general public are to be made, or are designed to be made, by means of a lottery, etc., (2) supplying, etc., wholesalers, etc., with packages or assortments of candy which are used, or are designed to be used, without alteration or rearrangement of the contents, to conduct a lottery, etc., in sale or distribution of such contents, and (3) packing, etc., in the same package, etc., of candy for sale to the public at retail, pieces of candy of uniform size, etc., with centers of a different color, together with larger pieces of candy to be given as prizes to those procuring piece with center of a particular color; as in order below in detail specified and set forth.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on August 4, 1936, the Commission made its findings as to the facts herein and concluded therefrom that respondent had violated the provisions of Section 5 of the Federal Trade Commission Act and on November 14, 1936, issued and served its modified order to cease and desist; and it further appearing that on June 10, 1938, the United States Circuit Court of Appeals for the First Circuit rendered its opinion modifying the aforesaid modified order of the Commission in certain particulars and affirming said modified order in other particulars;

Now, therefore, Pursuant to the provisions of subsection (i) of Section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with the said Court opinion:

It is ordered, That the respondent, Charles N. Miller Co., its officers, agents, representatives, and employees, in the offering for sale, sale,

1464

Order

and distribution in interstate commerce of candy and candy products, do cease and desist from:

1. Selling and distributing to jobbers and wholesale dealers for resale to retail dealers, or to retail dealers direct, candy so packed and assembled that sales of such candy to the general public are to be made or are designed to be made by means of a lottery, gaming device, or gift enterprise.

2. Supplying to or placing in the hands of wholesale dealers and jobbers or retail dealers packages or assortments of candy which are used or are designed to be used, without alteration or rearrangement of the contents of such packages or assortments, to conduct a lottery, gaming device, or gift enterprise in the sale or distribution of the candy or candy products contained in said assortment to the public.

3. Packing or assembling in the same package or assortment, for sale to the public at retail, pieces of candy of uniform size and shape having centers of a different color, together with larger pieces of candy, which said larger pieces of candy are to be given as prizes to the purchaser procuring a piece of candy with a center of a particular color.

It is further ordered, That the respondent, within 30 days after the service upon it of this order, shall file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinabove set forth.

IN THE MATTER OF

SIEGEL & ALENIKOFF ET AL.

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

Docket 4427. Complaint, Dec. 20, 1940—Decision, May 14, 1941

Where three partners engaged in the manufacture of women's textile fabric coats and other garments so constructed as to have the appearance of the silky, tightly curled, and highly prized fur of Karakul lambs and in the interstate sale and distribution thereof, and four concerns which were their agents, with places of business in Cleveland, Boston, Detroit, and Chicago, respectively, serving as stock houses therefor—

- (a) Represented that said textile fabric garments were made from the peltries of Persian lambs, young of the Karakul sheep, or from their wool, through use of words "Persian," "Genuine Babelamm," "Persian Fur Fabrics," "Imported" and others of like import, accompanied by pictorial representations of sheep or lambs and a woman wearing a coat with the appearance of fur and other illustrations of said textile fabric garments in advertisements in trade journals, window display cards and other advertising matter, and through tags and labels which they attached to said garments, some of which bore pictorial designs of sheep or lambs and trade names "Galykurl" and "Babelamm";

Facts being said garments were composed of wool and cotton or of wool, cotton and rayon, which chemically manufactured fiber, when spun or combined with wool, has the appearance and feel thereof, so that garments manufactured of fabrics so composed are practically indistinguishable from wool; and

- (b) Failed to disclose or indicate in their labels, tags, and other advertising material the presence of rayon and cotton in their said product;

With effect of confusing, misleading, and deceiving a substantial portion of the purchasing public into the belief that their said representations were true and of thereby inducing purchase by it of substantial quantities of their said products; and through furnishing said misleading labels and tags and other advertising material to customers of placing in the hands of retailers an instrumentality whereby they might deceive or mislead members of the purchasing public into the erroneous belief that said textile fabric garments were made from the peltries or wool of Karakul lambs:

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

Mr. Joseph C. Fehr for the Commission.

Mr. Leopold Bleich, of New York City, for respondents.