

Order

40 F. T. C.

IN THE MATTER OF
JACOB GOLDBERG, TRADING AS CROWN NOVELTY HOUSE

MODIFIED ORDER TO CEASE AND DESIST

Docket 3484. Order, April 3, 1945

Modified order in proceeding in question—in which original order issued on February 8, 1939, 28 F. T. C. 475—requiring respondent, his representatives, etc., in connection with offer, etc., in commerce, of watches, cameras, and other articles, as below specified, to cease and desist from using lottery schemes in merchandising thereof, or using term “free,” etc. to refer to articles offered as compensation for distributing its merchandise, as in said order specified.

MODIFIED 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 duly made and issued its findings as to the facts, conclusion, and order to cease and desist dated February 8, 1939; and the Commission having further considered said order to cease and desist heretofore issued, and being of the opinion that the public interest requires that a modified order to cease and desist should be issued in said cause; and the Commission having given due notice to the respondent to show cause on March 13, 1945, why this case should not be reopened for the purpose of modifying said order to cease and desist; and the Commission having considered the matter and the record herein, issues this its modified order to cease and desist.

It is ordered, That the respondent, Jacob Goldberg, individually, and trading as Crown Novelty House, or trading under any other name, his representatives, agents and employees, directly or through any corporate or other device in connection with the offering for sale, sale and distribution of watches, cameras, china and silverware, lamps, razor blades, clocks, cigaret lighters, jewelry, cosmetics, bedding, kitchenware, or any other articles of 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, pull cards or circulars having pull tabs thereon, or other lottery devices for the purpose of enabling such persons to dispose of or sell any merchandise by the use thereof.

2. Mailing, shipping or transporting to his agents or to distributors or to members of the public pull cards or circulars having pull tabs thereon, or other lottery devices so prepared or printed as to enable such persons to sell or distribute any merchandise by the use thereof.

3. Selling or otherwise disposing of any merchandise by the use of pull cards or circulars having pull tabs thereon, or any other lottery device.

4. Using the term “free,” or any other term of similar import or meaning, to describe or refer to articles offered as compensation for distributing respondent’s merchandise.

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.

Order

IN THE MATTER OF
LEKAS AND DRIVAS, INC.

MODIFIED ORDER TO CEASE AND DESIST

Docket 4815. Order, April 3, 1945

Modified order pursuant to provisions of Section 5 (i) of the Federal Trade Commission Act and in accordance with decree below referred to, in proceeding in question in which original order issued on July 7, 1943, 37 F. T. C. 9, and in which the Circuit Court of Appeals for the Second Circuit on November 30, 1944, in *Lekas and Drivas, Inc. v. Federal Trade Commission*, 145 F. (2d) 976, 39 F. T. C. 714, rendered its opinion, and on December 18, 1944 issued its decree modifying said order of the Commission in certain particulars and affirming the same in other particulars—

Requiring respondent, its officers, etc., in connection with the offer, etc., of olive oil, to cease and desist from disseminating advertisements which directly or through inference misrepresent the therapeutic value of its said product, misrepresent nutritional value of olive oil as compared with meat, or misrepresent specific vitamin contents thereof, etc., as in said order specified.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on July 7, 1943, the Commission made its findings as to the facts herein and concluded therefrom that respondent had violated the provisions of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on November 30, 1944, the United States Circuit Court of Appeals for the Second Circuit rendered its opinion and on December 18, 1944, issued its decree modifying the aforesaid order of the Commission in certain particulars and affirming said 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 said decree.

It is ordered, That the respondent, Lekas and Drivas, Inc., a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, or distribution of olive oil, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails or by any means in commerce as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents directly or through inference,

- a. That respondent's olive oil, when taken internally, has any specific therapeutic value in the treatment or prevention of any disease or condition, except a possible slight value as a laxative.

- b. That respondent's olive oil is a tonic or that its use will invigorate or build up vital organs.

- c. That respondent's olive oil will have any value in preventing appendicitis, gallstones, or infections of the bladder.

- d. That respondent's olive oil, when applied externally, has any thera-