

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-

peutic value in the treatment of irritations of the skin other than that supplied by a lubricant.

e. That respondent's olive oil has any therapeutic value in the treatment or alleviation of pain resulting from neuralgia or rheumatism other than the beneficial effects which might be obtained from the rubbing or massage facilitated by the use of olive oil as a lubricant.

f. That the nutritional value of olive oil is comparable to, or of greater value than, dried or fresh meat.

g. That respondent's olive oil supplies substantial quantities of vitamins A or E or that it has any therapeutic value in the treatment of any condition where the use of such vitamins might be beneficial.

h. That respondent's olive oil contains vitamin F.

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce as "commerce" is defined in the Federal Trade Commission Act, of respondent's olive oil, which advertisement contains any of the representations prohibited in paragraph 1 hereof and the respective subdivisions thereof.

It is further ordered, That the respondent shall, within 30 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.

Order

IN THE MATTER OF

FLOYD IRL SORRELLS, TRADING AS TEXAS TASTY
COMPANY

MODIFIED ORDER TO CEASE AND DESIST

Docket 3487. Order, April 5, 1945

Modified order in proceeding in question—in which original order issued on January 10, 1939, 28 F. T. C. 64—requiring respondent, his representatives, etc., in connection with offer, etc., in commerce, of "Penny Nips" confections, to cease and desist from representing the same as noncompetitive, from misrepresenting qualities and properties thereof, endorsement by city officials, etc., terms and conditions to agents and representatives, necessity for securing state or municipal license for sale thereof, etc., and from use of term "free" to refer thereto, as in said order specified.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having heretofore been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, which answer admitted all of the material allegations of fact set forth in the complaint and waived all intervening procedure and further hearings as to the facts, and the Commission having, on January 10, 1939, issued and subsequently served upon the respondent its findings as to the facts and conclusion and its order to cease and desist; and the Commission having further considered said order to cease and desist and having given due notice to the respondent to show cause, if any be had, why the proceeding should not be reopened for the purpose of modifying said order in the respects and to the extent set out in said notice, and the respondent having made no objections to the proposed modification of said order; and the Commission having duly considered the matter and the record herein, and having concluded that the public interest requires the modification of said order to cease and desist in the respects and to the extent set out in said notice.

It is ordered, That the respondent, Floyd Irl Sorrells, an individual, trading as the Texas Tasty Company or under any other trade 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 confections known as "Penny Nips," whether sold under that name or under any other name, in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

Representing directly or in any manner whatever

1. That such confection is a noncompetitive article of merchandise.
2. That such confection will remain in marketable condition in weather temperature up to 132° Fahrenheit.
3. That the city officials of Fort Worth, Texas, or of any other city, have certified the purity of such confection, until and unless such officials have so certified respondent's confection.
4. That the liquid in such confection is pure fruit juice.
5. That respondent's representatives or agents will remain in the territory allotted to a dealer under contract, for the purpose of aiding the dealer in his sale of respondent's product, until the dealer has sold