

IN THE MATTER OF
**PARKER T. FREY, DOING BUSINESS AS PARKER T. FREY
COMPANY AND NEARBY SALES COMPANY**

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 2 (C) OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914, AS AMENDED
BY AN ACT OF CONGRESS APPROVED JUNE 19, 1936

Docket 4290. Complaint, Aug. 29, 1940—Decision, Oct. 8, 1940

Where an individual engaged for many years, in his own right and trading under certain firm names, in (1) acting as broker in sale of food products, and particularly canned sea food and vegetables; and in (2) buying and selling, for his own account, such products, and in causing same, thus purchased, to be shipped and transported by sellers thereof from their respective other States to himself or, pursuant to instructions and directions, to respective purchasers to whom said products had been resold by him—

Received and accepted, in course of business of buying, as aforesaid, for his own account, such products, from numerous sellers thereof, brokerage fee or allowance or discount in lieu thereof on many purchases made, as above set forth, for his said own account and for resale:

Held, That, in accepting and receiving discounts and allowances in lieu of brokerage upon such own account purchases in interstate commerce as above set forth, he violated provisions of section 2 (c) of Clayton Act, as amended by Robinson-Patman Act.

Mr. John W. Carter, Jr., for the Commission.

COMPLAINT

Pursuant to the provisions of an act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," commonly known as the Clayton Act (U. S. C. title 15, sec. 13), as amended by an act of Congress approved June 19, 1936, commonly known as the Robinson-Patman Act, the Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof and hereinafter more particularly designated and described, since June 19, 1936, has been, and is now, violating the provisions of subsection (c) of section 2 of said act, as amended, issues its complaint against said respondent and states its charges with respect thereto as follows, to wit:

PARAGRAPH 1. Respondent Parker T. Frey is an individual doing business principally under the firm name and style of the Parker T. Frey Co. but also under the firm name and style of the Nearby Sales Co. The respondent has his principal office and place of business at 135 South Second Street, Philadelphia.

PAR. 2. Respondent is now, and for many years prior hereto has been, engaged in the business of acting as broker in the sale of food products, particularly canned sea food and vegetables, said business having been carried on by him principally under the firm name and style of Parker T. Frey Co.

Respondent is also engaged, and for many years prior hereto has been engaged, in the business of buying and selling for his own account food products, particularly canned sea food and vegetables, said business having been carried on by him principally under the firm name and style of the Nearby Sales Co. but also under the firm name and style of Parker T. Frey Co.

Since June 19, 1936, respondent has made many purchases of said food products aforementioned, for his own account, for resale, from sellers located in States other than the State of Pennsylvania, pursuant to which purchases, such commodities have been shipped and transported by the sellers thereof from the respective States in which they are located, across State lines, either to respondent, or pursuant to instructions and directions from respondent, to the respective purchasers to whom such products have been resold by said respondent.

PAR. 3. In the course and conduct of his business of buying food products for his own account in commerce as aforesaid, the respondent, trading under the firm names and styles aforementioned, has been, and is now, receiving and accepting from numerous sellers of said products, so purchased, brokerage fees, or allowances or discounts in lieu thereof, on many of said purchases for his own account.

PAR. 4. The aforesaid acts of the respondent constitute a violation of subsection (c) of section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes," approved October 15, 1914, the Clayton Act, as amended by an act of Congress approved June 19, 1936, The Robinson-Patman Act (U. S. C. title 15, sec. 13), the Federal Trade Commission on the 29th day of August 1940, issued and served its complaint in this proceeding upon respondent, Parker T. Frey, charging the respondent with violation of the provisions of subsection (c) of section 2 of the said act.

On September 9, 1940, the respondent filed his answer, admitting all the material allegations of fact set forth in said complaint, waiving

Findings

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all intervening procedure and further hearings as to said facts, and waiving the filing of briefs and presentation of oral argument. Thereafter the proceeding regularly came on for final hearing before the Commission on the complaint and answer as aforesaid, and the Commission, having duly considered the matter and being now fully advised in the premises and being of the opinion that section 2 (c) of the Clayton Act as amended by the Robinson-Patman Act has been violated by the respondent, now makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Parker T. Frey, is an individual who, in his own right and trading principally under the style and firm name of Parker T. Frey Co. and oftentimes under the style and firm name of Nearby Sales Co., is now, and for many years prior hereto has been, engaged in the business of acting as broker in the sale of food products, particularly canned sea food and vegetables. Respondent's principal office and place of business is now located at 8 South Front Street, Philadelphia, Pa.

PAR. 2. The respondent, in his own right and trading principally under the style and firm name of Nearby Sales Co. and oftentimes under the style and firm name of Parker T. Frey Co., is now, and for many years prior hereto has been, engaged in the business of buying and selling for his own account for resale food products, particularly canned sea food and vegetables, and since June 19, 1936, has caused such food products so purchased for his own account as aforesaid to be shipped and transported by the sellers thereof from the respective States in which such sellers are located across State lines either to respondent, or, pursuant to instructions and directions from respondent, to the respective purchasers to whom such products have been resold by respondent.

PAR. 3. That in the course of the business of buying such food products aforesaid for his own account in commerce for resale, as aforesaid, the said respondent, Parker T. Frey, trading in his own behalf and right principally under the style and firm name of Nearby Sales Co. and oftentimes under the name of Parker T. Frey Co., has received and accepted, and is now receiving and accepting, from numerous sellers of such products, so purchased, a brokerage fee, or an allowance or discount in lieu thereof, on many purchases made as aforesaid for his own account for resale.

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Order

CONCLUSION

In accepting and receiving discounts and allowances in lieu of brokerage upon purchases of commodities for his own account in interstate commerce, as set forth in the foregoing findings as to the facts, the respondent, Parker T. Frey, individually and while trading under the style and firm name of Nearby Sales Co., and also while trading under the style and firm name of Parker T. Frey Co., violated the provisions of section 2 (c) of the Clayton Act as amended by the Robinson-Patman 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 it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of section 2 (c) of the Clayton Act as amended by the Robinson-Patman Act, approved June 19, 1936 (U. S. C. title 15, sec. 13).

It is ordered, That in purchasing commodities in interstate commerce the respondent, Parker T. Frey, individually, and trading under the names of Nearby Sales Co. and Parker T. Frey Co., or any other name, his agents, employees, and representatives, directly or through any corporate or other device, do forthwith cease and desist from :

1. Accepting from sellers directly or indirectly on purchases of commodities made for the respondent's own account any brokerage and any allowances and discounts in lieu of brokerage, in whatever manner or form said allowances and discounts may be offered, allowed, granted, paid or transmitted ; and

2. Accepting from sellers in any manner or form whatever, directly or indirectly, anything of value as a commission, brokerage, or other compensation or any allowance or discount in lieu thereof upon purchases of commodities made for respondent's own account.

It is further ordered, That the said respondent, Parker T. Frey, 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 the order to cease and desist hereinabove set forth.

IN THE MATTER OF

MEYER BRODIE AND MORRIS WHITE, TRADING AS M & M BAG AND SUITCASE COMPANY

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

Docket 4046. Complaint, Mar 4, 1940—Decision, Oct. 9, 1940

Where two individuals engaged in sale and distribution of leather luggage, consisting of traveling bags, suitcases, and other such products, to retailers and members of purchasing public in the various States and in the District of Columbia—

Represented, through the use of such statements on labels attached to their said products as "This Article is Made of Genuine Buffalo Walrus Leather," that certain of their said suitcases and bags were made of such product, facts being they were not made thereof, but of buffalo leather;

With effect of misleading and deceiving substantial part of purchasing public into mistaken belief that such representations were true and that said products were made of such designated material, and, as result of such mistaken belief, of inducing said public to purchase substantial quantities of such products:

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.

Before *Mr. John W. Addison*, trial examiner.

Mr. S. Brogdyne Teu, II, for the Commission.

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 Meyer Brodie and Morris White, individually and trading as M & M Bag and Suit Case Co., hereinafter referred to as respondents, have 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. Respondents Meyer Brodie and Morris White are individuals trading as M & M Bag and Suit Case Co. with their principal office and place of business located at 26 Exchange Place in the city of Jersey, State of New Jersey.

PAR. 2. Respondents are now, and for more than 1 year last past have been, engaged in the business of selling and distributing leather luggage consisting of traveling bags, suit cases, and other luggage. Respondents sell their products to retailers and members of the pur-