

## Complaint

IN THE MATTER OF  
GENERAL GROCER COMPANY

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

*Docket 4281. Complaint, Aug. 28, 1940—Decision, June 27, 1941*

Where a corporation engaged in the purchase of food stuffs at wholesale from sellers located in other States, and in the interstate sale and distribution thereof—

Received and accepted allowances and discounts in lieu of brokerage in substantial amounts, through, usually, purchasing commodities at prices lower than those at which such commodities were sold to other purchasers by an amount reflecting all or a portion of the brokerage currently being paid by sellers of such commodities to their respective brokers for effecting sales to other purchasers:

*Held*, That such receipt and acceptance of allowances and discounts in lieu of brokerage fees or commissions from sellers upon purchases of commodities were in violation of the provisions of section 2 (c) of the Clayton Act as amended by the Robinson-Patman Act.

*Mr. John T. Haslett* for the Commission.

*Cobbs, Logan, Roos & Armstrong*, of St. Louis, Mo., for respondent.

## COMPLAINT

The Federal Trade Commission having reason to believe that the respondent named in the caption hereof, and hereinafter more particularly designated and described, since June 19, 1936, has violated and is now violating the provisions of subsection (c) of section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U. S. C. title 15, section 13), hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent General Grocer Co. is a corporation organized and existing under the laws of the State of Delaware with its principal office and place of business located at 301 South Eighth Street, St. Louis, Mo. Respondent is engaged in the purchase, sale, and distribution of food products at wholesale.

PAR. 2. In the course and conduct of its said business respondent purchases a substantial portion of its requirements from sellers located in States other than the State in which the respondent is located, pursuant to which purchased commodities are caused to be shipped and transported by the respective sellers thereof across State lines to the respondent.

PAR. 3. Since June 19, 1936, in connection with the purchase of its requirements in interstate commerce, as aforesaid, respondent has

## Findings

33 F. T. C.

received and accepted allowances and discounts in lieu of brokerage in substantial amounts.

Usually, the receipt and acceptance of the aforesaid allowances and discounts in lieu of brokerage is accomplished by respondent by purchasing commodities at prices lower than the prices at which such commodities are sold to other purchasers thereof by an amount which reflects all or a portion of the brokerage currently being paid by the sellers of such commodities to their respective brokers for effecting sales of such commodities to other purchasers.

PAR. 4. The receipt and acceptance of allowances and discounts in lieu of brokerage by respondent as set forth in paragraph 3 hereof is in violation of subsection (c) of section 2 of the Clayton Act as amended.

## 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 28th day of August, 1940, issued and thereafter served its complaint in this proceeding upon respondent General Grocer Co., a corporation, charging the respondent with violation of the provisions of subsection (c) of section 2 of the said act.

After the issuance and service 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 hearings as to said facts and expressly waiving the filing of briefs and oral argument, which substitute answer was duly 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, 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. Respondent General Grocer Co. is a corporation organized and existing under the laws of the State of Delaware with

its principal office and place of business located at 301 South Eighth Street, St. Louis, Mo. Respondent is engaged in the purchase, sale and distribution of food products at wholesale.

PAR. 2. In the course and conduct of its said business respondent purchases a substantial portion of its requirements from sellers located in States other than the State in which the respondent is located, pursuant to which purchased commodities are caused to be shipped and transported by the respective sellers thereof across State lines to the respondent.

PAR. 3. Since June 19, 1936, in connection with the purchase of its requirements in interstate commerce, as aforesaid, respondent has received and accepted allowances and discounts in lieu of brokerage in substantial amounts.

Usually the receipt and acceptance of the aforesaid allowances and discounts in lieu of brokerage are accomplished by respondent by purchasing commodities at prices lower than the prices at which such commodities are sold to other purchasers thereof by an amount which reflects all or a portion of the brokerage currently being paid by the sellers of such commodities to their respective brokers for effecting sales of such commodities to other purchasers.

#### CONCLUSION

In receiving and accepting allowances and discounts in lieu of brokerage fees or commissions from sellers upon purchases of commodities as set forth in paragraph 3 hereof, the respondent has 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 substitute 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 hearings as to said facts and expressly waives the filing of briefs and oral argument, and the Commission having made its findings as to the facts and conclusion that said 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, section 13).

*It is ordered*, That in purchasing commodities in interstate commerce, the respondent General Grocer Co., a corporation, its agents, employees, and representatives, do forthwith cease and desist from:

## Order

33 F. T. C.

1. Accepting from sellers, directly or indirectly, any allowance for discount in lieu of brokerage fees or commissions in whatever manner or form said allowances, discounts, brokerage fees or commissions 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 fee, or other compensation, or any allowance or discount in lieu thereof, upon purchases of commodities made by the respondent.

*It is further ordered,* That the said respondent General Grocer Co., a corporation, shall within 60 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 the order to cease and desist hereinabove set forth by the Commission.

## Complaint

## IN THE MATTER OF

## J. H. THORP &amp; COMPANY, INC.

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

*Docket 4310. Complaint, Sept. 12, 1940—Decision, June 28, 1941*

Where a corporation engaged in the interstate sale and distribution of various grades and types of textile fabrics—

Falsely represented in advertisements, price lists, on labels, and otherwise, through designations "sunfast," "tubfast," "washable," and "fadeless," that said fabrics respectively would not change or lose color, or otherwise deviate from their original color when exposed to the light of the sun; would not change color, "bleed," lose color, or otherwise deviate from their original colors and designs when washed or laundered; and would not similarly react when exposed to sunlight or laundering;

With tendency and capacity to mislead a substantial portion of the purchasing public into the erroneous belief that said statements were true, as a result of which a number of such public purchased its fabrics in substantial volume:

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

*Mr. Robert Mathis, Jr.* 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 J. H. Thorp & Co., Inc., a corporation, 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, J. H. Thorp & Co., Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business at 250 Park Avenue, in the city of New York, and State of New York, and a branch office and place of business at 10 East Thirty-fourth Street, in the city of New York, and State of New York.

PAR. 2. Respondent is now, and for more than 1 year last past has been, engaged in business of selling and distributing various grades and types of textile fabrics. Respondent sells its products to members of the purchasing public situated in the various States of the United States and in the District of Columbia, and causes said