

Complaint

IN THE MATTER OF

MAURICE J. KELLNER, DOING BUSINESS AS M. J.
KELLNER, BROKER, ETC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 2 (c) OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914*Docket 4796. Complaint, Aug. 6, 1942—Decision, July 8, 1943*

Where an individual, engaged as a broker of general food products and other miscellaneous merchandise, and also as a jobber thereof—

Received and accepted from numerous sellers in other states on purchases on his own account for resale, brokerage fees or allowances or discounts in lieu thereof:

Held, That in receiving and accepting such brokerage fees or allowances, or discounts in lieu thereof, from sellers upon his purchases in interstate commerce, as aforesaid, he violated the provisions of Subsection (c) of Section 2 of the Clayton Act as amended by the Robinson-Patman Act.

Mr. E. S. Ragsdale for the Commission.

Gottlieb & Schwartz and Libit & Lindauer, of Chicago, Ill., for respondent.

COMPLAINT

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 violated and is now violating the provisions of subsection (c) of section 2 of the Clayton Act (U. S. C. title 15, sec. 13) as amended by the Robinson-Patman Act, approved June 19, 1936, hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent, Maurice J. Kellner, is an individual, doing business under the name and style of M. J. Kellner, broker, M. J. Kellner Brokerage Co., Illinois Brokerage Co. and O-K Sales Co., having his principal office and place of business located at 8th and Madison Streets, Springfield, Ill.

PAR. 2. The respondent is now and for many years prior hereto has been engaged in business as a broker of general food products and other miscellaneous merchandise and has conducted such business under the name and style of M. J. Kellner, broker, M. J. Kellner Brokerage Co., Illinois Brokerage Co. and O-K Sales Co.

PAR. 3. The respondent is now and for many years prior hereto has also been engaged in business as a jobber of general food products and other miscellaneous merchandise and has also conducted such jobbing enterprises under the name and style of M. J. Kellner, broker,

M. J. Kellner Brokerage Co., Illinois Brokerage Co. and O-K Sales Co.

PAR. 4. The respondent since June 19, 1936, has made many purchases of general food products and other miscellaneous merchandise for his own account, for resale, from numerous sellers located in States other than the State of Illinois, and pursuant to said purchases such general food products and other miscellaneous merchandise have been shipped and transported by the respective sellers thereof from the States in which such sellers are located across State lines either to the respondent or pursuant to respondent's instructions and directions to respective purchasers to whom such general food products and other miscellaneous merchandise have been sold by said respondent.

PAR. 5. In the course and conduct of respondent's business as a jobber, he purchases such general food products and other miscellaneous merchandise for his own account in commerce as aforesaid under the name and style of M. J. Kellner, broker, M. J. Kellner Brokerage Co., Illinois Brokerage Co., and O-K Sales Co., and has been and is now receiving and accepting from numerous sellers of said general food products and other miscellaneous merchandise so purchased, brokerage fees or allowances or discounts in lieu thereof on purchases of said general food products and other miscellaneous merchandise for his own account.

PAR. 6. The aforesaid acts of 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 6th day of August, 1942, issued and thereafter served its complaint in this proceeding upon respondent Maurice J. Kellner, an individual doing business as M. J. Kellner, broker, M. J. Kellner Brokerage Co., Illinois Brokerage Co., and O-K Sales Co., 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 said complaint and substitute answer; and the Commission, having duly considered the matter and being now fully advised in the premises, makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Maurice J. Kellner, is an individual, doing business under the names M. J. Kellner, broker, M. J. Kellner Brokerage Co., Illinois Brokerage Co., and O-K Sales Co.; having his principal office and place of business located at Eighth and Madison Streets, Springfield, Ill.

PAR. 2. The respondent is now and for many years prior hereto has been engaged in business as a broker of general food products and other miscellaneous merchandise, and has conducted such business under the names M. J. Kellner, broker, M. J. Kellner Brokerage Co., Illinois Brokerage Co., and O-K Sales Co.

PAR. 3. The respondent is now and for many years prior hereto has also been engaged in business as a jobber of general food products and other miscellaneous merchandise, and has conducted such business enterprise under the names M. J. Kellner, broker, M. J. Kellner Brokerage Co., Illinois Brokerage Co., and O-K Sales Co.

PAR. 4. The respondent since June 19, 1936, has made many purchases of general food products and other miscellaneous merchandise for his own account, for resale, from numerous sellers located in States other than the State of Illinois, and pursuant to said purchases, such food products and other miscellaneous merchandise have been shipped and transported by the respective sellers thereof from the States in which such sellers are located across State lines either to the respondent or, pursuant to respondent's instructions and directions, to purchasers to whom such food products and other miscellaneous merchandise have been sold by said respondent.

PAR. 5. In the course and conduct of respondent's business as a jobber, he purchases such general food products and other miscellaneous merchandise for his own account in commerce, as aforesaid under the name M. J. Kellner, broker, M. J. Kellner Brokerage Co., Illinois Brokerage Co., and O-K Sales Co., and has been and is now receiving and accepting from numerous sellers of said general food products and other miscellaneous merchandise so purchased, broker-

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age fees or allowances or discounts in lieu thereof on purchases of said general food products and other miscellaneous merchandise for his own account.

CONCLUSION

In receiving and accepting brokerage fees or allowances or discounts in lieu of brokerage fees from sellers upon his purchases in interstate commerce of food products and other miscellaneous merchandise, as set forth in the foregoing findings as to the facts, the respondent, Maurice J. Kellner, an individual doing business as M. J. Kellner, broker, M. J. Kellner Brokerage Co., Illinois Brokerage Co., and O-K Sales Co., has violated the provisions of subsection (c) of section 2 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).

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the substitute 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 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 subsection (c) of section 2 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):

It is ordered, That the respondent, Maurice J. Kellner, individually, and trading as M. J. Kellner, broker, M. J. Kellner Brokerage Co., Illinois Brokerage Co., and O-K Sales Co., or trading under any other name, and his agents, representatives, and employees, directly or through any corporate or other device, in connection with the purchase of food products and other merchandise in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Receiving or accepting from sellers in any manner or form whatever, directly or indirectly, anything of value as a commission, broker-

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age or other compensation, or any allowance or discount in lieu thereof, upon purchases of food products or other merchandise made for respondent's own account.

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.

IN THE MATTER OF
GUY C. BEALS, TRADING UNDER THE NAME INTERNATIONAL TRUSTEES, AND SPIEGEL, INC.

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

Docket 4863. Complaint, Oct. 30, 1942—Decision, July 8, 1943

Where (1) an individual, engaged in interstate sale and distribution of, envelopes, printed form letters, and questionnaire forms for use in obtaining information concerning debtors of the purchasers thereof, including a mail order house, and which—calling for such information as the debtor's occupation, address, name of spouse, dependents, employer, income, insurance, home or car ownership, and personal references—displayed on form letter sent to debtor, trade name "International Trustees," followed by "Fiduciary Agents" and address of said individual and such other matter as "Money is being held in trust for the above-named person. In order to deliver this money quickly, we must have the enclosed TRUSTEE QUESTION FORM filled out and returned to us at once. If you are this person—and we have every reason to believe you are—fill out the enclosed TRUSTEE QUESTION FORM immediately, and send it to us by return mail. Don't delay. You have real money waiting for you—if you are the person we are seeking. INTERNATIONAL TRUSTEES"; and in said "Trustee Question Form" set forth, under "A sum of money is being held for you," such questions as "Have you recently received any money?" and immediately preceding place for debtor's signature statement "I understand that if the information I have furnished corresponds with what you have in your possession the money you are holding in trust will be delivered to me promptly. Signed _____"; and (2) a Chicago mail order house, among other purchasers, engaged in sale of various articles on credit to purchasers in various States and in undertaking to effect collection of delinquent accounts, in which connection it employed aforesaid forms, etc.;

Making use of a scheme under which such mail order concern and other purchasers inserted in a form letter the name and last known address of a debtor, placed (1) letter, (2) questionnaire, and (3) a smaller return stamped envelope addressed to said "International Trustees," etc., in a large stamped envelope addressed to debtor and bearing in upper left corner the words "Return to International Trustees" and said individual's address, and forwarded all said material to said individual, who mailed the large envelopes with their contents at his post office, and returned in due course to said mail order concern and other purchasers the information secured through questionnaires, and sent usually to person replying the sum of 1 cent, together with slip stating "Attached above is the penny that was held in trust for you," and, "this is the full amount that was held in trust in your name";

Falsely represented thereby to the recipients of such material that they were beneficiaries of trust funds held by "International Trustees" as "fiduciary agents," and that the information was sought for the purpose of identifying the recipients as the proper beneficiaries to whom such funds should be