

IN THE MATTER OF

JOE H. BRITT AND S. J. McKINNEY, DOING BUSINESS AS
BRITT-McKINNEY COMPANY, AND AS BRITT & 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 ACT OF JUNE 19, 1936

Docket 4792. •Complaint, July 31, 1942—Decision, Apr. 19, 1945

Where two partners engaged as brokers of canned foods and fruits and other food products and miscellaneous merchandise, and also in buying and selling such commodities for their own account for resale, from sellers in other states—

Received and accepted on such purchases of food products and other commodities for their own account in commerce, fees or allowances or discounts in lieu thereof from numerous sellers thereof:

Held, That such receipt and acceptance by said partners of brokerage payments, or allowances or discounts in lieu thereof, on their purchases of food products and other commodities in commerce constituted violations of subsection (c) of Section 2 of the Clayton Act as amended.

Mr. Edward S. Ragsdale for the Commission.

Mr. Stephen Nettles, of Greenville, S. C., for respondents.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondents named in the caption hereof and hereinafter more particularly designated and described since June 19, 1936, have violated and are 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. Respondents, Joe H. Britt and S. J. McKinney, are partners, doing business under the name and style of Britt-McKinney Company, having their principal office and place of business located at 301 West Washington Street, Greenville, S. C., and having a branch office and warehouse operated under the name and style of Britt & Company located in the Piedmont Northern Building, Spartanburg, S. C.

PAR. 2. The respondents are now, and for many years prior hereto have been, engaged in business as brokers of canned foods and fruits and other miscellaneous merchandise.

PAR. 3. The respondents are now, and for many years prior hereto have also been, engaged in business as jobbers, buying and selling for their own account, canned foods and fruits, and other miscellaneous merchandise. This business has also been carried on under the firm name and style of Britt-McKinney Company and Britt & Company.

PAR. 4. The respondents since June 19, 1936, have made many purchases of canned foods and fruits and other miscellaneous merchandise for their own account for resale from sellers located in States other than the State of South Carolina, pursuant to which purchases such commodities have been shipped and transported by the respective sellers thereof from

the States in which they are located across State lines either to the respondents or pursuant to respondents' instructions to purchasers to whom such commodities have been resold by said respondents.

PAR. 5. In the course and conduct of their business of buying canned foods and fruits and other miscellaneous merchandise for their own account in commerce as aforesaid, the respondents, trading under the firm name and style of Britt-McKinney Company and Britt & Company, have been and are now receiving and accepting from numerous sellers of canned foods and fruits and other miscellaneous merchandise so purchased, brokerage fees or allowances or discounts in lieu thereof, on purchases of said commodities for their own account.

PAR. 6. The aforesaid acts of the respondents 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 act approved June 19, 1936, (the Robinson-Patman Act—U. S. C. Title 15, Sec. 13), the Federal Trade Commission on July 31, 1942, issued and subsequently served its complaint in this proceeding upon the respondents named in the caption hereof, charging them with violation of the provisions of subsection (c) of section 2 of said Clayton Act as amended. The respondents filed answer to said complaint, in which answer they admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to the facts. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint and answer; and the Commission, having duly considered the same 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. Respondents, Joe H. Britt and S. J. McKinney, are partners, doing business under the name and style of Britt-McKinney Company, having their principal office and place of business located at 301 West Washington Street, Greenville, S. C., and having a branch office and warehouse operated under the name and style of Britt & Company located in the Piedmont Northern Building, Spartanburg, S. C. For many years last past they have been engaged in business as brokers of food products and other commodities, and also have been engaged in business as jobbers, buying and selling food products and other commodities for their own account.

PAR. 2. Since June 19, 1936, the respondents have made many purchases of canned foods and fruits and other miscellaneous merchandise for resale for their own account from sellers located in States other than the State of South Carolina, pursuant to which purchases such commodities have been shipped and transported by the respective sellers thereof from the States in which they are located across State lines either to the respondents or, pursuant to respondents' instructions, to purchasers to whom such commodities have been resold by said respondents.

Order

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PAR. 3. In the course and conduct of their business of buying food products and other commodities for their own account in commerce as aforesaid, the respondents, trading under the firm names and styles of Britt-McKinney Company and Britt & Company, have been, and are now, receiving and accepting brokerage fees or allowances or discounts in lieu thereof from numerous sellers of food products and other commodities on purchases of said food products and other commodities for their own account.

CONCLUSION

The receipt and acceptance by the respondents of brokerage payments, or allowances or discounts in lieu thereof, on their purchases of food products and other commodities in interstate commerce, as herein found, constitute violations of subsection (c) of section 2 of the aforesaid Clayton Act as amended.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and answer of respondents, in which answer respondents admitted all of the material allegations of fact set forth in said complaint and waived 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 said respondents have violated the provisions of subsection (c) of section 2 of the 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 act of Congress approved June 19, 1936, (the Robinson-Patman Act—U. S. C. Title 15, Sec. 13).

It is ordered, That respondents Joe H. Britt, an individual, and S. J. McKinney, an individual, and as copartners, trading as Britt-McKinney Company or Britt & Company, or under any other name, jointly or severally, their agents, employees, and representatives, directly or through any corporate or other device, in or in connection with the purchase of food products or other commodities in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Receiving or accepting from any seller, directly or indirectly, anything of value as brokerage, or any commission, compensation, allowance or discount in lieu thereof, upon purchases made for respondents' own account.

It is further ordered, That the respondents shall, within 60 days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

Complaint

IN THE MATTER OF
JAEGER SHOP, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 5210. Complaint, Aug. 29, 1944—Decision, Apr. 19, 1945*

Where the brand name "Jaeger" had become well and favorably known in the trade and by the purchasing public, and fine woolen garments, including women's sweaters, coats, suits and dresses made and sold since 1883 by "Jaeger Limited of London" and its subsidiaries had been imported into and extensively sold in the United States and had a well established reputation for quality therein; and thereafter a New York corporation with office and principal place of business in Saranac, engaged in the interstate sale and distribution of women's sportswear, including sweaters, coats and suits—

Made use of the word "Jaeger" in its corporate name and as a trade name on circulars, price lists and other advertising matter and featured the name in its circulars, letterheads and advertising, through such statements as "JAEGER sweaters of fine British wools"; "JAEGER SWEATERS OF IMPORTED YARNS"; "JAEGER Skirt and Sweater Shop"; "JAEGER Saranac Lake, New York"; "JAEGER seventy-six Main St. Saranac Lake, New York"; and "Handsome Tweeds * * * Jaeger Shop, Inc."; notwithstanding the fact it had never been connected or in any way associated with the firms of "Jaeger Limited of London" and the garments sold by it were not manufactured by "Jaeger Limited" or its subsidiaries;

With the capacity to deceive and mislead, and with effect of misleading and deceiving, members of the purchasing public into the belief that its garments were the products of "Jaeger Limited of London" or its subsidiaries, and, as a result, of inducing them to purchase substantial quantities thereof:

Held, That said 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.

Mr. J. W. Brookfield, 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 Jaeger Shop, 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 interest of the public, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. The respondent, Jaeger Shop, Inc., is a corporation, organized and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 76 Main Street in the city of Saranac, N. Y. Respondent is now, and for more than two years last past has been, engaged in the sale and distribution of women's sportswear, including sweaters, coats and suits. Respondent causes its garments, when sold, to be shipped or transported from its afore-