

Complaint

IN THE MATTER OF
TETLEY TEA COMPANY, INC.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 2 (d) OF THE CLAYTON ACT

Docket 6462. Complaint, Nov. 21, 1955—Decision, Apr. 26, 1956

Consent order requiring a food supplier in New York City—charged with giving special allowances to Food Fair Stores, Inc., of Philadelphia, and Giant Food Shopping Center, Inc., of Washington, D. C. for promotion of anniversary sales—to cease granting such allowances unless it made them on a proportionally equal basis to all competing customers.

Before *Mr. Frank Hier*, hearing examiner.

Mr. Andrew C. Goodhope for the Commission.

Cleary, Gottlieb, Friendly & Ball, of Washington, D. C., for respondent.

COMPLAINT

The Federal Trade Commission having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly described, has violated the provisions of subsection (d) of Section 2 of the Clayton Act (U.S.C. Title 15, Sec. 13), as amended by the Robinson-Patman Act, hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent, Tetley Tea Company, Inc., is a corporation organized, existing 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 483 Greenwich Street, New York, New York.

PAR. 2. Respondent is now and has been engaged in the sale and distribution of tea and tea bags as its principal products and which are sold under the trade name "Tetley". Respondent sells its products through grocery jobbers and directly to retail customers, including retail chain store organizations. Sales made by respondent of its products are substantial, amounting to in excess of \$11,000,000 annually.

PAR. 3. In the course and conduct of its business respondent has engaged and is now engaging in commerce, as "commerce" is defined in the Clayton Act as amended. Respondent sells and causes its products to be shipped from its principal place of business in the State of New York across state lines to customers located in States other than the State of New York and in the District of Columbia.

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PAR. 4. In the course and conduct of its business in commerce, respondent has paid or contracted for the payment of something of value to or for the benefit of some of its customers as compensation or in consideration for service or facilities furnished by or through such customers in connection with their offering for sale or sale of products sold to them by respondent, and such payments were not made available on proportionally equal terms to all other customers competing in the sale and distribution of respondent's products.

PAR. 5. For example, during the year 1955 respondent contracted to pay and did pay \$1,875 to the Food Fair Stores, Inc., of Philadelphia, Pennsylvania, and \$250 to the Giant Food Shopping Center, Inc., of Washington, D. C., and has also contracted to pay an additional \$1,875 to the Food Fair Stores, Inc., as compensation or as allowance for advertising or other service or facility furnished by or through such customers in connection with their offering for sale or sale of products sold to them by the respondent. Such compensation or allowances were not offered or made available by respondent on proportionally equal terms to all other customers competing in the sale and distribution of respondent's products with Food Fair Stores, Inc., or Giant Food Shopping Center, Inc.

PAR. 6. The acts and practices of respondent, as alleged above, violate subsection (d) of Section 2 of the Clayton Act as amended by the Robinson-Patman Act.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of subsection (d) of Section 2 of the Clayton Act (15 U.S.C. 13) as amended by the Robinson-Patman Act, the Federal Trade Commission on November 21, 1955, issued and subsequently served its complaint in this proceeding against Tetley Tea Company, Inc., a New York corporation with its office and principal place of business located at 483 Greenwich Street, New York, New York.

On March 12, 1956, there was submitted to the undersigned hearing examiner an agreement between respondent and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, respondent admits all the jurisdictional facts alleged in the complaint, agrees that the record may be taken as if jurisdictional facts had been made in accordance with such allegations and agrees that the agreement disposes of all of this proceeding as to all parties. By such agreement, respondent waives any further procedural steps before the hearing examiner and the Commission, the making of findings of fact and conclusions of law, and all the rights it may have to challenge or

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contest the validity of the order to cease and desist agreed upon therein and hereinafter entered herein. Such agreement further provides that respondent's answer heretofore filed in this proceeding shall be considered as having been withdrawn and that the record on which this initial decision is based and on which the decision of the Commission shall be based shall consist solely of the complaint and such agreement. Such agreement further provides that it shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint; and that the cease and desist order provided for therein, may be entered by the Commission without further notice to the respondent, and, when so entered, such order shall have the same force and effect as if entered after full hearing and may be altered, modified, or set aside in the manner provided for other orders. Lastly, such agreement provides that the complaint may be used in construing the terms of the order.

The hearing examiner, having considered the agreement and proposed order, and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding, that the Commission has jurisdiction of the subject matter and of respondent, herewith, in accordance with said agreement enters the following order:

ORDER

It is ordered, That respondent Tetley Tea Company, Inc., a corporation, its officers, employees, agents and representatives, directly or through any corporate or other device, in or in connection with the sale of tea and tea bags in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from:

Making or contracting to make, to or for the benefit of any customer, any payment of anything of value as compensation or in consideration for any advertising or other service or facilities furnished by or through such customer, in connection with the handling, offering for resale or resale of products sold to him by respondent, unless such payment is affirmatively offered or otherwise made available to all competing customers on proportionally equal terms.

DECISION OF THE COMMISSION AND ORDER TO FILE
REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 26th day

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of April, 1956, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein shall, within sixty (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.

Complaint

IN THE MATTER OF
INTERNATIONAL MOTELS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

Docket 6457. Complaint, Nov. 21, 1955—Decision, Apr. 27, 1956

Consent order requiring sellers in Millbrae, Calif., to cease making a variety of false claims in advertising and through statements of sales persons concerning their correspondence course designed to prepare students for work as motel managers.

Before *Mr. William L. Pack*, hearing examiner.

Mr. George E. Steinmetz for the Commission.

Mr. E. C. Mahoney, of Burlingame, Calif., for respondents.

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 International Motels, Inc., a corporation, Lewis I. Heater, Reedy O. Bouldin, Frank E. Weeks and Albert I. Mayberry, individually and as officers of said corporation, 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. Respondent International Motels, Inc., is a corporation organized and existing under and by virtue of the laws of the State of California, with offices and principal place of business maintained at 273 Broadway, Millbrae, California. Respondent Lewis I. Heater is President, Reedy O. Bouldin First Vice-President, Frank E. Weeks Second Vice-President, and Albert I. Mayberry Secretary-Treasurer of said corporation. These individuals, acting in cooperation with each other, formulate, direct and control the acts, policies and practices of said corporate respondent. Their addresses are the same as that of the corporate respondent.

PAR. 2. Respondent International Motels, Inc. is now, and for more than two years last past has been, engaged in the solicitation, sale and distribution in commerce of a course of study and instruction designed to prepare students for work in the capacity of Motel Managers. Said course is pursued through the medium of the