

Decision

IN THE MATTER OF
HARRY KRAUSS, ET AL., DOING BUSINESS AS
JOB LOT TRADING COMPANY

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

Docket 7300. Complaint, Nov. 14, 1958—Decision, Mar. 7, 1959

Consent order requiring New York City sellers to cease fictitious pricing in newspaper advertisements which represented that exaggerated prices set forth therein as "Reg." and "List" were the prices at which they customarily sold their merchandise.

Mr. Garland S. Ferguson supporting the complaint.

Mr. Irving Jay Greenspan, of New York, N.Y., for respondents.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

On November 14, 1958, the Federal Trade Commission issued a complaint charging that Harry Krauss and Sam Osman, individually and trading and doing business as Job Lot Trading Company, hereinafter referred to as respondents, had violated the provisions of the Federal Trade Commission Act by making false, misleading and deceptive statements and representations in the sale of their merchandise.

After issuance and service of the complaint, the respondents, their counsel and counsel supporting the complaint entered into an agreement for a consent order. The order disposes of the matters complained about. The agreement has been approved by the director and assistant director of the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with Section 3.25 of the Rules of Practice.

Respondents, pursuant to the aforesaid agreement, have admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been made duly in accordance with such allegations. Said agreement further provides that respondents waive all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions of law and the right to challenge or contest the validity of the order to cease and desist entered in accordance

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with such agreement. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, that said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint, that said order to cease and desist shall have the same force and effect as if entered after a full hearing and may be altered, modified, or set aside in the manner provided for other orders, and that the complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing the consent order, and it appearing that the order and agreement cover all of the allegations of the complaint and provide for appropriate disposition of this proceeding, the agreement is hereby accepted and ordered filed upon this decision and said agreement becoming part of the Commission's decision pursuant to Sections 3.21 and 3.25 of the Rules of Practice, and the hearing examiner accordingly makes the following findings, for jurisdictional purposes, and order:

Respondents Harry Krauss and Sam Osman are individuals trading as Job Lot Trading Company with their principal place of business located at 53 Vesey Street, New York, N.Y.

The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Federal Trade Commission Act. This proceeding is in the public interest.

ORDER

It is ordered, That respondents Harry Krauss and Sam Osman, individually and trading and doing business as Job Lot Trading Company, or trading under any other name, their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing, directly or by implication, that any specific amount is respondents' regular retail price of merchandise when such amount is in excess of the price at which such merchandise is

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customarily and usually sold at retail by the respondents in the normal course of their business.

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 7th day of March 1959, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents herein shall within sixty (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 the order to cease and desist.

Complaint

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IN THE MATTER OF
FRITO COMPANY, ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 2(c) OF THE CLAYTON ACT

Docket 7239. Complaint, Aug. 28, 1958—Decision, Mar. 10, 1959

Consent order requiring a Texas distributor of Mexican-style food products and its subsidiary to cease violating Sec. 2(c) of the Clayton Act by paying the customary brokerage of 5% to a customer on direct purchases for its own account, and requiring said recipient, buying the products mainly for its own supermarkets and other outlets in Latin America and elsewhere, to cease accepting such illegal payments.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly designated and described, have been 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. Respondent Frito Company, hereinafter referred to as Frito, is a corporation existing and doing business under and by virtue of the laws of the State of Texas, with its offices and principal place of business located at 2600 Cedar Springs Avenue, Dallas, Tex. Frito, since 1956, has owned approximately 51% of the voting stock of Texas Tavern Canning Company, controlling its sales and operational policies, and is charged with the acts and practices of Texas Tavern Canning Company as hereinafter described. Frito's net sales for 1957 were approximately \$33,379,500, with net profits of approximately \$1,049,295.

PAR. 2. Texas Tavern Canning Company, hereinafter referred to as Texas Tavern, is a corporation existing and doing business under and by virtue of the laws of the State of Texas, with its offices and principal place of business located at Fair Park, Sequin, Tex. Texas Tavern is now, and for the past several years has been, engaged in the business of manufacturing, selling and distributing beef and pork tamales, chicken tamales, menudo, enchiladas, fried beans, Spanish rice and other food products which it advertises as "Real Mexican Foods," and which