

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.

IN THE MATTER OF
D. L. PIAZZA CO.

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

Docket 7519. Complaint, June 11, 1959—Decision, Dec. 8, 1959

Consent order requiring a Minneapolis broker of food products to cease violating Sec. 2(c) of the Clayton Act by receiving and accepting brokerage from various packer principals, including Minute Maid Corporation, on purchases of citrus food products for its own account for resale.

COMPLAINT

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

PARAGRAPH 1. Respondent D. L. Piazza Co., hereinafter sometimes referred to as Piazza, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its office and principal place of business located at 100 North Seventh Street, Minneapolis, Minnesota.

PAR. 2. Respondent is now, and for the past several years has been, engaged primarily in the brokerage business. It is a licensed food broker and deals in fresh fruits and vegetables, all of which are hereinafter sometimes referred to as food products. In the fresh fruit field respondent deals primarily in citrus fruit, such as oranges, grapefruit, and tangerines. Respondent represents a number of principals located in various states throughout the country, two of which are Minute Maid Corporation and its wholly owned subsidiary Minute Maid Groves Corporation, with offices, packing plants and warehouses located in the State of Florida and elsewhere. In representing Minute Maid Corporation and Minute Maid Groves Corporation, both of which are hereinafter sometimes referred to as Minute Maid, in the sale of their citrus fruits, respondent receives for its services in connection therewith, a commission, or brokerage fee at the rate of 10 cents per 1 $\frac{3}{5}$ bushel Bruce box, and 5 cents per $\frac{4}{5}$ bushel Bruce box, or $\frac{1}{2}$ box.

PAR. 3. In the course and conduct of its business in selling and distributing the products of its various principals, as well as its own purchases, respondent has directly or indirectly caused such food products, when purchased or sold, to be transported from the packing plants or warehouses of its principals to buyers thereof located in another state or states of the United States, other than the state of origin of said food products. Thus respondent has been for the past several years, and is now, engaged in a continuous course of trade in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended.

PAR. 4. In the course and conduct of its business as aforesaid during the past several years, but more particularly during and from 1956 up to the present time, respondent has made and is now making numerous and substantial purchases of food products for its own account for resale from its various packer principals, including Minute Maid Corporation and Minute Maid Groves Corporation, on which purchases it has received and accepted and is now receiving and accepting, directly or indirectly, something of value as a commission, brokerage, or other compensation or an allowance or discount in lieu thereof, from such sellers, including Minute Maid Corporation and Minute Maid Groves Corporation.

PAR. 5. The acts and practices of respondent as above alleged and described are in violation of the provisions of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C., Title 15, Section 13).

Mr. Cecil G. Miles for the Commission.

No appearances for the respondent.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on June 11, 1959, issued its complaint herein, charging the above-named respondent with having violated the provisions of subsection (c) of §2 of the Clayton Act, as amended (U.S.C., Title 15, §13), and the respondent was duly served with process.

On August 17, 1959, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval and "Agreement Containing Consent Order To Cease And Desist," which had been entered into by and between respondent and counsel supporting the complaint, under date of August 14, 1959, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently duly approved the same.

On due consideration of such agreement, the hearing examiner finds that said agreement, both in form and in content, is in accord with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and that by said agreement the parties have specifically agreed to the following matters:

1. Respondent D. L. Piazza Co. is a corporation, existing and doing business under and by virtue of the laws of the State of Minnesota, with its office and principal place of business located at 100 North Seventh Street, Minneapolis, Minnesota.
2. Respondent admits all the jurisdictional facts alleged in the complaint and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.
3. This agreement disposes of all of this proceeding as to all parties.
4. Respondent waives:
 - a. Any further procedural steps before the hearing examiner and the Commission;
 - b. The making of findings of fact or conclusions of law; and
 - c. All of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.
5. The record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement.
6. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

7. This 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.

8. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondent. When so entered it shall have the same force and effect as if entered after a full hearing. It may be altered, modified or set aside in the manner provided for other orders. The complaint may be used in construing the terms of the order.

Upon due consideration of the complaint filed herein and the said "Agreement Containing Consent Order To Cease And Desist," the latter is hereby approved, accepted and ordered filed, the same not to become a part of the record herein, however, unless and until it becomes a part of the decision of the Commission. The hearing examiner finds from the complaint and the said "Agreement Containing Consent Order To Cease And Desist" that the Commission has jurisdiction of the subject matter of this proceeding and of the respondent herein; that the complaint states a legal cause for complaint under the Clayton Act as amended (U.S.C., Title 15, §13) against the respondent both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreement is appropriate for the just disposition of all of the issues in this proceeding as to all of the parties hereto; and that said order therefore should be, and hereby is, entered as follows:

ORDER

It is ordered, That D. L. Piazza Co., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the purchase of citrus fruit or other food products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Receiving or accepting, directly or indirectly, from any seller, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any purchase of citrus fruit or other food products for its own account, or where respondent is the agent, representative, or other intermediary acting for in behalf of, or is subject to the direct or indirect control of, any such buyer.

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 8th day

EGAN, FICKETT & CO., INC.

615

611

Complaint

of December, 1959, become the decision of the Commission; and,
accordingly: