

February, 1960, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF
SOUTHERN FRUIT DISTRIBUTORS, INC.

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

Docket 7566. Complaint, Aug. 7, 1959—Decision, Feb. 13, 1960

Consent order requiring canners and processors of citrus fruit, fruit juices, and peaches in Orlando, Fla., under the trade names "Bluebird" and "Cardinal" and under private labels, to cease violating Sec. 2(c) of the Clayton Act by granting "trade discounts" in lieu of brokerage, or making sales at reduced prices reflecting brokerage, on direct sales to certain buyers.

Mr. Ross D. Young for the Commission.

Mr. A. Byrne Litschgi, of Washington, D.C., and *Arnold & Matheny*, of Orlando, Fla., for respondent.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) issued its complaint herein on August 7, 1959, charging respondent Southern Fruit Distributors, Inc., a corporation, with having violated the provisions of §2(c) of the Clayton Act, as amended (U.S.C. Title 15, §13), in certain particulars.

On December 16, 1959, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order To Cease And Desist," which had been entered into by and between respondent and the attorneys for both parties, under date of November 19, 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 Southern Fruit Distributors, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Pineloch Avenue, in the City of Orlando, State of Florida.

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 person of the respondent herein; that the complaint states a legal cause for complaint under the Clayton Act, as amended, 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 respondent, Southern Fruit Distributors, Inc., a corporation, its successors, its officers, agents, representatives, or employees, directly or through any corporate or other device, in connection with the sale of its products, including canned citrus products, in commerce, as "commerce" is defined in the amended Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer, or to anyone acting for or in behalf of such buyer, or to anyone who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of its products to such buyer for the buyer's own account.

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 13th day of February, 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Southern Fruit Distributors, Inc., a corporation, 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.

IN THE MATTER OF

THE GREAT MINNEAPOLIS SURPLUS STORE, INC.,
ET AL.