

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
SHAMROCK FOODS, INC., ET AL.

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

Docket 7576. Complaint, Sept. 1, 1959—Decision, Sept. 16, 1960

Consent order requiring a large wholesale distributor of canned and packaged food and a brokerage firm, with their common president and owner, to cease violating Sec. 2(c) of the Clayton Act by receiving and accepting from various suppliers illegal brokerage, consisting of a percentage of the net sales price, on substantial purchases for their own account.

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 violated and are 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 Shamrock Foods, Inc., hereinafter sometimes referred to as the buyer respondent, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 1611 Chicago Avenue, Evanston, Ill. Said buyer respondent has been for the past several years, and is now, engaged in business as a wholesale distributor of canned and packaged food products, purchasing from a number of suppliers located in various other States of the United States and reselling said food products under its own brands to customers, many of whom are likewise located in other states. Respondent is a substantial factor in the canned and packaged food field, with a sales volume in excess of \$1,000,000 annually.

PAR. 2. Respondent Food Guild Corporation, hereinafter sometimes referred to as the broker respondent, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 1611 Chicago Avenue, Evanston, Ill. Said broker respondent is a brokerage firm utilized primarily by the buyer respondent as an intermediary through which said buyer respondent purchases for resale a substantial quantity of its food products from its suppliers located in various other states.

PAR. 3. Respondent Robert M. Buchanan is an individual and is president and sole stockholder of both the buyer and the broker respondents named herein, with his principal office and place of business the same as that of the buyer and broker respondents. As president and sole stockholder of both the buyer and broker respondents, he exercises authority and control over all of the buyer and the broker respondents' business operations, including their purchase, sales and distribution policies.

PAR. 4. In the course and conduct of their business for the past several years respondents, both corporate and individual, have purchased, and are now purchasing, food products in commerce, as "commerce" is defined in the aforesaid Clayton Act from sellers located in several States of the United States other than the State in which respondents are located, and have resold substantial quantities of said food products to customers likewise located in states other than the State in which respondents are located. Said respondents transport or cause such food products, when purchased or resold, to be transported from the places of business of their re-

spective suppliers, or sellers, to their own place of business, or to the places of business of respondents' customers located in various other States of the United States. Thus, there has been at all times mentioned herein a continuous course of trade in commerce, in said food products, across state lines between respondents and their suppliers or sellers, and also between respondents and their customers or buyers of said food products.

PAR. 5. In the course and conduct of their business in commerce, as aforesaid, the buyer respondent has made, and is now making, substantial purchases of food products for its own account through the said broker respondent from various suppliers or sellers on which purchases the respondents, both corporate and individual, have received and accepted, and are 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 said sellers or suppliers. These rates of commissions, brokerage fees, or allowances or discounts in lieu thereof, received by respondents as hereinabove alleged and described, were a certain percentage of the net sales price of the food products as agreed upon between the respondents, and each of them, and the sellers of said food products.

PAR. 6. The acts and practices of the buyer respondent and the individual respondent in making substantial purchases through the broker respondent where both the buyer and the broker respondents were and are owned and controlled by the individual respondent, as hereinabove alleged and described, and the receipt of commissions, brokerage fees, or allowances or discounts in lieu thereof, by respondents, both corporate and individual, on said purchases, as alleged herein, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

Mr. Martin F. Connor supporting the complaint.

Whyte, Hirschboeck, Minahan, Harding & Harland by *Mr. Robert P. Harland* of Milwaukee, Wis., for respondents.

INITIAL DECISION BY EDWARD CREEL, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on September 1, 1959 charging them with receipt of commissions, brokerage fees, or allowances or discounts in lieu thereof, in violation of subsection (c) of Section 2 of the Clayton Act, as amended.

On July 5, 1960 there was submitted to the undersigned hearing examiner an agreement between respondents, their counsel, and counsel supporting the complaint providing for the entry of a consent order.

Under the terms of the agreement, the respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing and the document includes a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it is for settlement purposes only and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint.

The hearing examiner finds that the content of the agreement meets all of the requirements of Section 3.25(b) of the Rules of the Commission.

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, the agreement is hereby accepted, and it is ordered that said agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission. The following jurisdictional findings are made and the following order issued.

1. Respondent Shamrock Foods, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 1611 Chicago Avenue, Evanston, Ill.

2. Respondent Food Guild Corporation is a corporation existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 1611 Chicago Avenue, Evanston, Ill.

3. Respondent Robert M. Buchanan is an individual and is president of Shamrock Foods, Inc., and Food Guild Corporation and his address is 1611 Chicago Avenue, Evanston, Ill.

4. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents and the proceeding is in the public interest.

ORDER

It is ordered. That respondents, Shamrock Foods, Inc., a corporation, and its officers, and Robert M. Buchanan, individually and

as an officer of respondent Shamrock Foods, Inc., and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the purchase of food products or other commodities in commerce, as "commerce" is defined in the 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 the purchase of food products or other commodities for the account of Shamrock Foods, Inc., or Robert M. Buchanan.

It is further ordered, That respondents, Food Guild Corporation, a corporation, and its officers, and Robert M. Buchanan, individually and as an officer of respondent Food Guild Corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the purchase of food products or other commodities in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from:

1. 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 the purchase of food products or other commodities for the account of Food Guild Corporation, Shamrock Foods, Inc., or Robert M. Buchanan;

2. 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 the purchase of food products or other commodities by or for the account of any buyer, where said respondents, or either of them, are acting for or in behalf of such buyer as intermediaries, agents, or representatives, or are subject to the direct or indirect control of 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 16th day of September 1960, 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

IN THE MATTER OF
NORTH AMERICAN FOREIGN TRADING CORPORATION
ET AL.

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

Docket 7872. Complaint, Apr. 19, 1960—Decision, Sept. 21, 1960

Consent order requiring New York City distributors to cease selling watch bands imported from Japan, Hong Kong, and West Germany without adequate disclosure of their foreign origin—the alleged unfair practices consisting of packaging the bands between two pieces of cardboard with a clear cellophane window, which made it impossible to see the stamping of the foreign country on the inside of a link without opening and damaging the package.

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 North American Foreign Trading Corporation, a corporation, and Morris Lowinger, individually and as an officer 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 North American Foreign Trading Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 220 5th Avenue, in the city of New York, State of New York.

Respondent Morris Lowinger is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His business address is the same as that of the corporate respondent.

PAR. 2. Respondents are now and for some time last past have been engaged in the offering for sale, sale and distribution of watch bands to distributors and jobbers.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia, and