

Complaint

IN THE MATTER OF

IPSWICH HOSIERY COMPANY, INC.

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

Docket 7715. Complaint, Jan. 5, 1960—Decision, Oct. 12, 1960

Consent order requiring a distributor of women's hosiery in Manchester, N.H., to cease violating Sec. 2(d) of the Clayton Act by paying certain of its jobber customers for advertising but not their competitors, such as payments of \$450, \$500, and \$900 made in the years 1957, 1958, and 1959 to one Houston, Tex., purchaser.

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, Ipswich Hosiery Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Hampshire, with its principal office and place of business located at 540 North Commercial Street, Manchester, New Hampshire.

PAR. 2. Respondent is now and has been engaged in the sale and distribution of women's hosiery which it sells directly to retailer customers and to wholesalers and jobbers located throughout the United States. Respondent's total sales for the year 1958 were in excess of two million dollars.

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 causes the products which it sells to be transported from the State of New Hampshire to customers located in other states throughout the United States and in the District of Columbia.

PAR. 4. In the course and conduct of its business in commerce, respondent 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 services and facilities furnished by or through such customers in connection with their offering for sale or sale of products sold to them by said respondent, and such payments were not made available on proportionally equal terms to all

customers competing in the sale and distribution of respondent's products.

PAR. 5. For example, respondent contracted to pay and did pay to J. Weingarten, Inc., of Houston, Texas, during the year 1957, \$450; during the year 1958, \$500; during the year 1959, \$900, as compensation or as allowances for advertising or other service or facility furnished by or through J. Weingarten, Inc., in connection with its offering for sale or sale of products sold to it by respondent. Such compensation or allowances were not offered or otherwise made available on proportionally equal terms to all other customers competing with J. Weingarten, Inc. in the sale and distribution of respondent's products.

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.

Mr. Fredric T. Suss and *Mr. Timothy J. Cronin, Jr.*, for the Commission.

Mr. Coleman T. Bahn, of Boston, Mass., and *Steptoe & Johnson*, by *Mr. I. Martin Leavitt*, of Washington, D.C., for respondent.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated January 5, 1960, the respondent is charged with violating the provisions of subsection (d) of section 2 of the Clayton Act, as amended.

On August 2, 1960, the respondent and its attorneys entered into an agreement with counsel in support of the complaint for a consent order.

Under the foregoing agreement, the respondent admits 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 respondent 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 respondent that it has 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 being of the opinion that the agreement and the proposed order provide an appropriate basis for disposition

of this proceeding as to all of the parties, the agreement is hereby accepted and it is ordered that the agreement shall not become a part of the official record of the proceeding 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 Ipswich Hosiery Company, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of New Hampshire, with its principal office and place of business located at 540 North Commercial Street, Manchester, New Hampshire.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent.

ORDER

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

Making or contracting to make, to or for the benefit of J. Weingarten, Inc., or any other customer, any payment of anything of value as compensation or in consideration for advertising or other services or facilities furnished by or through such customer, in connection with the handling, offering for resale, or resale of the respondent's hosiery products, unless such payment is made available on proportionally equal terms to all other customers competing in the distribution or resale of such products.

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 12th day of October, 1960, become the decision of the Commission; and, accordingly:

It is ordered, That 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

57 F.T.C.

IN THE MATTER OF

CONTACT LENS SPECIALISTS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 7948. Complaint, June 16, 1960—Decision, Oct. 12, 1960*

Consent order requiring Boston sellers to cease representing falsely in advertising that all persons could wear their contact lenses and without discomfort; that eyeglasses could be discarded; that the lenses would correct all defects in vision; and that they differed from other lenses.

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 Contact Lens Specialists, Inc., a corporation, and Leonard G. Wolfson, 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 Contact Lens Specialists, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Massachusetts, with its office and principal place of business located at 77 Summer Street, Boston, Massachusetts. Individual respondent Leonard G. Wolfson is an officer of said corporation. He formulates, directs and controls the policies of the corporate respondent. His address is the same as that of the corporate respondent.

PAR. 2. The respondents are now, and for some years last past have been, engaged in the advertising, offering for sale, and sale of corneal contact lenses. Contact lenses are designed to correct errors and deficiencies in the vision of the wearer, and are devices as "device" is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of their aforesaid business, respondents have disseminated, and have caused the dissemination of, advertisements concerning the said devices by the United States mails, and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in newspapers of general circulation and by means of circulars and pamphlets, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of