

Complaint

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It is further ordered, That the respondent 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 contained in the aforesaid initial decision.

IN THE MATTER OFG. LESTER IVEY ET AL. DOING BUSINESS AS
OSCEOLA FRUIT DISTRIBUTORSCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
SEC. 2(c) OF THE CLAYTON ACT*Docket 8015. Complaint, June 27, 1960—Decision, May 19, 1961*

Consent order requiring packers of citrus fruit and citrus juices in Kissimmee, Fla., to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties named in the caption hereof, and hereinafter more particularly described, have been 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. Respondents G. Lester Ivey, Hilda C. Ivey and Clarence L. Ivey are individuals and are copartners trading and doing business as Osceola Fruit Distributors, with office and principal place of business located at Kissimmee, Florida.

PAR. 2. Respondents are now, and for the past several years have been, engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, citrus juices and other food products, all of which are hereinafter sometimes referred to as food products. Respondents sell and distribute citrus fruit and other food products through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales of citrus fruit, respondents pay said brokers for their services a brokerage or commission, usually pay the rate of 10 cents per 1 $\frac{3}{8}$ bushel box, or equivalent. When brokers are utilized in making sales of citrus juices, respondents pay said brokers for their services a brokerage or commission, usually at the rate of approximately three per cent of the net selling price. Re-

spondents' annual volume of business in the sale of citrus fruit, citrus juices and other food products is substantial.

PAR. 3. In the course and conduct of their business over the past several years, respondents have sold and distributed, and are now selling and distributing, citrus fruit, citrus juices, and food products in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several States of the United States other than the State of Florida in which respondents are located. Respondents transport or cause such citrus fruit, citrus juices and food products, when sold, to be transported from their place of business or packing plant in the State of Florida, or from other places within the State, to such buyers or to the buyers' customers located in various other States of the United States. In many instances respondents sell to brokers or buyers located in the State of Florida, but ship or cause the citrus fruit, citrus juices or food products to be shipped to the buyers' customers located outside of said State. Thus, there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit, citrus juices, and food products across state lines between said respondents and the respective buyers of such food products, or the buyers' customers.

PAR. 4. In the course and conduct of their business as aforesaid, respondents have been and are now making substantial sales of citrus fruit and citrus juices to some, but not all, of their brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondents paid, granted, or allowed, and are now paying, granting, or allowing to these brokers and direct buyers on their own purchases, a commission, brokerage, or other compensation, or an allowance of discount in lieu thereof, in connection therewith.

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

Mr. Cecil G. Miles and *Mr. Ernest G. Barnes* for the Commission.
No appearance for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter, issued June 27, 1960, charges the respondents with violation of Section 2(c) of the Clayton Act, as amended, in connection with the sale and distribution of their citrus fruit, citrus juices and other food products. An agreement has now been entered into by respondents and counsel supporting the com-

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plaint which provides, among other things, that respondents admit all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified, or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the 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.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondents G. Lester Ivey, Hilda C. Ivey and Clarence L. Ivey are individuals and copartners trading and doing business as Osceola Fruit Distributors with their office and principal place of business located at Kissimmee, Florida.

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

ORDER

It is ordered, That respondents G. Lester Ivey, Hilda C. Ivey, and Clarence L. Ivey, individually and as copartners doing business as Osceola Fruit Distributors, and their agents, representatives, and employees, directly or through any corporate, partnership, sole proprietorship, or other device, in connection with the sale of citrus fruit, citrus juices, and other fruit products in commerce, as "commerce" is defined in the aforesaid 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 or 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

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lieu thereof, upon or in connection with any sale of citrus fruit, citrus juice, or fruit products to such buyer for his 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 19th day of May, 1961, become the decision of the Commission; and, accordingly:

It is ordered, That 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.
