

guaranteeing that the Commission is not the fact.
Federal Trade Commission when such is not the fact.

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 10th day of June, 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.

IN THE MATTER OF
MARCAL PAPER MILLS, INC.

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

Docket 8293. Complaint, Mar. 2, 1961—Decision, June 10, 1961

Consent order requiring a manufacturer of household paper products to cease violating Sec. 2(d) of the Clayton Act by paying some customers advertising allowances which were not made available on proportionally equal terms to all other competing customers, such as a payment of \$200 for advertising its products made to a retail grocery chain with headquarters in Jacksonville, Fla.

COMPLAINT

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

PARAGRAPH 1. Respondent, Marcal Paper Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 1 Market Street, East Paterson, New Jersey.

PAR. 2. Respondent is now and has been engaged in the manufacture, sale and distribution of household paper products including waxed paper, paper towels, hankies, toilet tissue, napkins, freezer paper, sandwich bags and drinking straws. Respondent sells and distributes its products to wholesalers and retailers, including retail chain store organizations.

PAR. 3. Respondent sells and causes its products to be transported from its principal place of business in the State of New Jersey to customers located in other States of the United States. There has been at all times mentioned herein a continuous course of trade in said products in commerce, as "commerce" is defined in the Clayton Act, as amended.

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 or facilities furnished by or through such customers in connection with their offering for sale or sale of products sold to them by respondent, and such payments were not made available on proportionally equal terms to all other customers competing in the sale and distribution of respondent's products.

PAR. 5. For example, in the year 1960 respondent contracted to pay and did pay to Winn-Dixie Stores, Inc., a retail grocery chain with headquarters in Jacksonville, Florida, the amount of \$200.00 as compensation or as an allowance for advertising or other services or facilities furnished by or through Winn-Dixie Stores, Inc., in connection with its offering for sale or sale of products sold to it by respondent. Such compensation or allowance was not made available on proportionally equal terms to all other customers competing with Winn-Dixie Stores, Inc., in the sale and distribution of products of like grade and quality purchased from respondent.

PAR. 6. The acts and practices of respondent, as alleged, are in violation of subsection (d) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act.

Mr. Robert G. Cutler for the Commission.

Mr. Frank T. Dierson, of New York, N.Y., for respondent.

INITIAL DECISION BY RAYMOND J. LYNCH, HEARING EXAMINER

The complaint in this proceeding, issued March 2, 1961, charges the above-named respondent with violation of the provisions of subsection (d) of section 2 of the Clayton Act, as amended.

On April 13, 1961, there was submitted to the undersigned hearing examiner an agreement between respondent and counsel supporting the complaint providing for the entry of a consent order.

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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, and that the complaint may be used in construing the terms of the order.

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 Marcal Paper Mills, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 1 Market Street, in the City of East Paterson, State of New Jersey.

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

ORDER

It is ordered, That respondent, Marcal Paper Mills, Inc., a corporation, its officers, employees, agents, and representatives, directly or through any corporate or other device, in or in connection with the sale of household paper products in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, do forthwith cease and desist from:

Making or contracting to make, to or for the benefit of any customer, any payment of anything of value as compensation or in consideration for any advertising or other services or facilities furnished by or through such customer, in connection with the handling, offering for sale, or sale of respondent's products, unless such payment or consideration is offered and otherwise made avail-

able on proportionally equal terms to all other customers competing in the distribution or resale of such products.

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