

September 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

DOEHLA GREETING CARDS, INC.

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

Docket 7821. Complaint, Mar. 11, 1960—Decision, Sept. 15, 1961

Consent order requiring a greeting card manufacturer, with plant in Nashua, N.H., and warehouse facilities in Philadelphia, Atlanta, and Palo Alto, also jobbing gift items and jewelry, with annual sales exceeding \$8,000,000, to cease discriminating in price in violation of Sec. 2(e) of the Clayton Act by furnishing a national program of joint advertising to eight of its franchise distributors—leasing to them names of participating agents, and referring inquiries to the member in whose allotted territory the inquirer was located—without offering comparable services to its other distributors upon proportionally equal terms.

COMPLAINT

Pursuant to the provisions of the Clayton Act, as amended by the Robinson-Patman Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the party named in the caption hereof and more particularly described and referred to hereinafter as respondent, has violated the provisions of subsection (e) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act (U.S.C. Title 15, Sec. 13), hereby issues its complaint, stating its charges as follows:

PARAGRAPH 1. Respondent Doehla Greeting Cards, Inc., hereinafter referred to as respondent Doehla, is a corporation organized and existing under the laws of the State of Delaware, with its principal office and place of business located in the City of Nashua, State of New Hampshire.

PAR. 2. Respondent Doehla is engaged in the business of the manufacture, sale and distribution of greeting cards and has been so engaged for more than five years. It maintains one plant located in Nashua, New Hampshire, and has warehouse facilities in Philadelphia, Pennsylvania; Atlanta, Georgia; and Palo Alto, California.

Said respondent conducts its business on a nationwide basis selling to wholesale distributors who resell to agents and retail establishments. It also maintains a mail order business, selling direct to consumers and to agents who resell to consumers.

In addition to its greeting cards business respondent Doehla also acts as a jobber in the sale and distribution of miscellaneous gift items and jewelry.

Respondent's annual volume of sales is in excess of \$8,000,000.

PAR. 3. Respondent in the course and conduct of its said business is engaged in commerce, as "commerce" is defined in the Clayton Act, in that it sells and distributes greeting cards, miscellaneous gift items and jewelry to purchasers thereof located in states other than the state of origin of shipment and causes such products to be shipped and transported from its place or places of business to purchasers located in other states and the District of Columbia. There is now and has been a constant course and flow of trade and commerce in such products between respondent and said purchasers.

PAR. 4. Among the wholesale distributor customers of respondent Doehla are distributors referred to as franchise distributors and non-franchise distributors. The franchise distributors operate under a franchise agreement which was established in or about 1947 and which provides, among other things, for a restricted area of operations for each such distributor, with Doehla agreeing not to set up direct competition in such area. Said franchise distributors also are required to purchase a substantial quantity of Doehla products.

PAR. 5. In about the year 1954 said respondent developed a plan or program referred to as "Associate Distributor Program" whereby a group of franchise distributors were to combine with respondent to form an unincorporated association, for the purpose of participating in, and sharing the expense of, a national advertising program.

Accordingly, a number of franchise distributors were contacted by respondent and eight of such distributors became members of a group known as "Harry Doehla and Associates." The plan provided in part that each member would have a definite territory or area in which

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to operate and that Doehla would lease the names of agents, who had previously purchased from Doehla, to each of the participating members, allocating to each member the names of the agents located in each member's territory.

Each of the eight franchise distributors who became Associates entered into two agreements with respondent Doehla, one called a "Class A Distributor Franchise agreement", and the other a "lease agreement". Both agreements extended for a period of five years with provision to be extended for an additional five or ten year period.

PAR. 6. By virtue of said agreements as referred to in Paragraph Five, respondent and the member distributors have participated jointly in a national advertising program, the cost of which has been shared by each on the basis of the number of inquiries received by each member from the area covered by each. The name and address of each participant is shown on each advertisement and inquiries are received from prospective customers who answer the advertisements. Also, respondent leased to each member a number of names of agents, such names being leased to that member whose area of operations covered the location of the agent whose name was leased.

In addition each participating franchise distributor was allowed a 2% rebate on the total dollar volume of sales by Doehla to such distributor, as a sales promotional allowance, the 2% rebate being applicable to items produced by respondent Doehla and displayed in its catalogs.

Said respondent and the franchise distributors who are members of Harry Doehla and Associates meet together twice annually and exchange ideas in connection with the marketing of the various products sold by respondent Doehla to such members.

Agreements between respondent Doehla and the eight franchise distributors also provide that such distributors will handle Doehla products to the extent of a substantial volume of their business for the duration of the agreements.

PAR. 7. The Associate Distributor Program described in Paragraphs Five and Six herein, has been accepted by eight distributors of respondent Doehla. There are many distributors of respondent's products to whom the Associate Distributor Program has not been offered, and some of such distributors who have not been offered the program are in competition with those distributors who are participating in said Program and who are members of Harry Doehla and Associates.

The quantity of Doehla products purchased by each of the franchise distributors who have accepted the Associate Distributor Program has substantially increased since the program was first put into effect in 1954.

PAR. 8. In furnishing a program which includes joint advertising on a national scale, the leasing of names of agents to those who participate, and the referral of all inquiries from such national advertising to each participating member who has been allotted the area or territory in which the inquirer is located, to a few distributors, namely, eight in number and not to other distributors, said respondent has thus discriminated in favor of those purchasers who have accepted such a program and against other purchasers of its products to whom such program has not been offered, by contracting to furnish and furnishing said services and facilities connected with the handling, sale and offering for sale of such products purchased from respondent upon terms not accorded to all purchasers on proportionately equal terms.

PAR. 9. The aforesaid acts and practices of respondent as herein alleged are in violation of the provisions of Section 2(e) of the Clayton Act, as amended by the Robinson-Patman Act.

DECISION AND ORDER

This matter having come on to be heard by the Commission upon a record consisting of the Commission's complaint charging the respondent named in the caption hereof with violation of Section 2(e) of the Clayton Act, as amended by the Robinson-Patman Act, and an agreement by and between the respondent and its counsel and counsel supporting the complaint, which agreement contains an order to cease and desist, an admission by the respondent of all the jurisdictional facts alleged in the complaint, a statement that the signing of said 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, and waivers and provisions as required by the Commission's rules; and

The Commission having considered the agreement and order contained therein and being of the opinion that the agreement provides an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings are made, and the following order is entered:

1. Respondent, Doehla Greeting Cards, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business in the City of Nashua, State of New Hampshire.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

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ORDER

It is ordered, That respondent Doehla Greeting Cards, Inc., a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of greeting cards, miscellaneous gift items and jewelry, in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from:

1. Contracting to furnish or furnishing, or contributing to the furnishing of, any services or facilities, connected with the handling, sale, or offering for sale of any of said products, to any purchaser of such products, bought for resale, unless such services or facilities are accorded on proportionally equal terms to all purchasers competing with such favored purchasers in the sale of respondent's products.

2. Furnishing any advertising plan or program under the name of "Harry Doehla and Associates" or any other name, to any purchaser, or group of purchasers, unless such plan or program is accorded on proportionally equal terms to all purchasers competing with such favored purchasers in the sale of respondent's products.

3. Participating with any purchaser, or group of purchasers, in any advertising plan or program, unless such participation is accorded on proportionally equal terms to all purchasers competing with such favored purchasers in the sale of respondent's products.

4. Leasing, selling, furnishing or otherwise making available to any purchaser the name or address of any present or former agent or representative, or prospective agent or representative, of respondent, unless such leasing, selling, furnishing or otherwise making available is accorded on proportionally equal terms to all purchasers competing with such favored purchasers in the sale of respondent's products.

5. Furnishing catalogs to any purchaser, describing the various products sold and distributed by respondent, unless such assistance is accorded on proportionally equal terms to all purchasers competing with such favored purchasers in the sale of respondent's products.

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 this order.

Complaint

IN THE MATTER OF

HAROLD HENRY KASTNER DOING BUSINESS AS
H. H. KASTNER & CO.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
SEC. 2(c) OF THE CLAYTON ACT*Docket 8130. Complaint, Sept. 27, 1960—Decision, Sept. 15, 1961*

Consent order requiring a commission merchant and broker in Sanford, Fla., to cease violating Sec. 2(c) of the Clayton Act by receiving and accepting commissions from citrus fruit packers on his own purchases for resale, usually at the rate of 10 cents per 1 $\frac{3}{5}$ bushel box or equivalent, or a lower price reflecting brokerage.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party named in the caption hereof, and hereinafter more particularly described, has been and is 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 Harold Henry Kastner is an individual trading and doing business as H. H. Kastner & Co., with office and principal place of business located at 501 West Thirteenth Street, Sanford, Florida, with mailing address as Post Office Box 742, Sanford, Florida.

PAR. 2. Respondent is now, and for the past several years has been, engaged in business as a commission merchant, wholesale distributor and broker, and in the course of this business he represents and has represented various packer-principals in the sale and distribution of citrus fruit, produce and other food products, hereinafter sometimes referred to as food products. In particular, respondent has represented, and now represents, a number of citrus fruit packers located in the State of Florida in the sale and distribution of citrus fruit, for which respondent was and is paid for his services in connection therewith a brokerage or commission, usually at the rate of 10 cents per 1 $\frac{3}{5}$ bushel box, or equivalent. A substantial part of respondent's business is acting in the capacity of a buying broker purchasing citrus fruit for his own account for resale.

PAR. 3. In the course and conduct of his business for the past several years, in representing packer-principals, as well as when purchasing for his own account, respondent has, directly or indirectly, caused such citrus fruit or produce, when sold or purchased, to be shipped and transported from various packers' packaging plants or