

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

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places of business located in the State of Florida to respondent's customers located in many states other than the State of Florida. Thus, for the past several years, respondent has been, and is now, engaged in a continuous course of trade in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended.

PAR. 4. In the course and conduct of his business in commerce, as aforesaid, during the past several years, but more particularly since January 1, 1959 to the present time, respondent has made, and is now making, numerous and substantial purchases of citrus fruit and produce for his own account for resale from various packers or sellers, on which purchases said respondent has received and accepted, and is now receiving and accepting, directly or indirectly, from said packers or sellers, something of value as a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

For example, respondent has made substantial purchases of citrus fruit for his own account from various packers or sellers located in the State of Florida and has received from these packers or sellers on said purchases, a brokerage or commission, or a discount in lieu thereof, usually at the rate of 10 cents per $13\frac{1}{2}$ bushel box, or equivalent. In many instances, respondent receives a lower price from the packers which reflects said brokerage or commission.

PAR. 5. The acts and practices of respondent in receiving and accepting a brokerage or commission, or an allowance or discount in lieu thereof, on his own purchases, as herein 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).

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 subsection (c) of Section 2 of the Clayton Act, as amended, and an agreement by and between respondent 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 he 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 Harold Henry Kastner is an individual doing business as H. H. Kastner & Co., under and by virtue of the laws of the State of Florida, with his office and principal place of business located at 501 West Thirteenth Street, Sanford, Florida, with mailing address as Post Office Box 742, Sanford, Florida.

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

ORDER

It is ordered, That respondent Harold Henry Kastner, individually and doing business as H. H. Kastner & Co., and respondent's agents, representatives and employees, directly or through any corporate, partnership, sole proprietorship, or other device, in connection with the purchase of citrus fruit or produce in commerce, as "commerce" is defined in the aforesaid 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 any purchase of citrus fruit or produce for respondent's own account, or where respondent is the agent, representative, or other intermediary acting for or in behalf, or is subject to the direct or indirect control, of any buyer.

It is further 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 this order.

IN THE MATTER OF

TOWERS MARTS, INC., ET AL.

CONSENT ORDER, ETC. IN REGARD TO THE ALLEGED VIOLATION OF THE