

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 21st day of September 1961, become the decision of the Commission; and, accordingly:

It is ordered, That the 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.

IN THE MATTER OF
WILLIAM MANIS COMPANY

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

Docket 8215. Complaint, Dec. 8, 1960—Decision, Sept. 22, 1961

Consent order requiring a Tampa, Fla., distributor and broker of citrus fruit and produce to cease violating Sec. 2(c) of the Clayton Act by accepting from Florida suppliers unlawful brokerage on its own purchases for resale, such as a discount at the rate of 10 cents per 1% bushel box or a lower price reflecting such commission.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent 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 William Manis Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 350 West Hillsborough Avenue, Tampa, Florida. Respondent William Manis Company was incorporated on September

24, 1959, but prior thereto the business was operated in a similar manner by William Manis as a sole proprietorship in Tampa, Florida.

PAR. 2. Respondent is now and for some time past has been engaged in business as a distributor, purchasing citrus fruit and produce for its own account for resale, as well as a buying broker representing buyers in the purchase of citrus fruit and produce for said buyers. A substantial part of respondent's business is in the purchase, sale and distribution of citrus fruit and produce, hereinafter sometimes referred to as food products, purchased from packers or sellers located in the State of Florida.

PAR. 3. In the course and conduct of its business for some time past, but more particularly since September 24, 1959, in purchasing food products for its own account, or for the account of buyers represented by respondent, respondent has directly or indirectly caused such food products when purchased and sold to be shipped and transported from various packers' packing plants or places of business located in the State of Florida, as well as in other states, to respondent or to respondent's customers located in many states other than the state in which the shipment originated. Thus for some time past, 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 its business in commerce, as aforesaid, for some time past but more particularly since September 24, 1959, to the present time, respondent has made, and is now making, numerous and substantial purchases of citrus fruit and other food products for its 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 many instances respondent has received a lower net price which reflected the allowance of said commission or brokerage, or a discount in lieu thereof, in connection with said purchases.

Further, respondent has in numerous transactions represented the buyer as the buyer's agent in connection with the purchase of citrus fruit or other food products but received a brokerage or commission, or a discount in lieu thereof, from the seller on said purchase transactions.

PAR. 5. The acts and practices of respondent in receiving and accepting from the seller a brokerage or commission, or an allowance or discount in lieu thereof, on its own purchases, or on purchases for a buyer where respondent was acting for or on behalf of said buyer in said transaction, as hereinabove alleged and described, are in viola-

Order

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tion 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 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 William Manis Company is a corporation existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 350 West Hillsborough Avenue, in the City of Tampa, State of 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 William Manis Company, a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the purchase of citrus fruit or produce in commerce, as "commerce" is defined in the Clayton Act, as amended, 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 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

USEN CANNING COMPANY

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2(d)
OF THE CLAYTON ACT*Docket 8313. Complaint, Mar. 14, 1961—Decision Sept. 22, 1961*

Consent order requiring a Boston, Mass., distributor of cat food to cease violating Sec. 2(d) of the Clayton Act by discriminating among competing purchasers; for example, paying \$250 to a Jacksonville, Fla., retail grocery chain for promoting its products while not making allowances available on proportionally equal terms to all other competing customers.

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 Usen Canning Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located at 44 Binford Street, Boston, Massachusetts.

PAR. 2. Respondent is now and has been engaged in the production, canning, sale and distribution of cat food. 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 Massachusetts 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.