

IN THE MATTER OF
RICHARD B. YANKEE ET AL. DOING BUSINESS AS
YANKEE BROKERAGE COMPANY

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

Docket 8084. Complaint, Aug. 19, 1960—Decision, Sept. 29, 1961

Consent order requiring Kansas City, Mo., brokers of citrus fruit and produce to cease violating Sec. 2(c) of the Clayton Act by accepting from Florida suppliers unlawful brokerage on their own purchases for resale, such as a discount at the rate of 10 cents per 1 $\frac{3}{4}$ bushel box, or equivalent, or a lower price reflecting such commission.

Complaint

59 F.T.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent 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 Richard B. Yankee and Beulah M. Yankee are individuals and copartners doing business as Yankee Brokerage Company, under and by virtue of the laws of the State of Missouri, with their offices and principal place of business located at 205-07 Merchants Produce Bank Building, Kansas City, Missouri. These individual respondents formulate, direct and control the business, acts and practices of the partnership, Yankee Brokerage Company, including its purchase, sale and distribution policies.

PAR. 2. Respondents are now, and for the past several years have been, engaged primarily in the brokerage business, representing a number of packer-principals located in various sections of the United States in the sale and distribution of citrus fruit and produce, as well as other food products, all of which are hereinafter sometimes referred to as food products. In particular, respondents have represented, and now represent, a number of citrus fruit packers located in the State of Florida in the sale and distribution of their citrus fruit, for which respondents were and are paid for their services in connection therewith a brokerage or commission, usually at the rate of 10 cents per 1 $\frac{3}{4}$ bushel box, or equivalent. In many instances respondents have also purchased citrus fruit and other food products for their own account for resale.

PAR. 3. In the course and conduct of their business for the past several years, in representing their packer-principals, as well as when purchasing for their own account, respondents have, directly or indirectly, caused such food products, when sold or purchased, to be shipped and transported from various packers' packing plants or places of business located in many States of the United States other than the State of Missouri to respondents, or to respondents' customers located in Missouri and in other states. Thus, for the past several years, respondents have been, and are 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 their business in commerce, as aforesaid, during the past several years, but more particularly since July 1, 1956, to the present time, respondents have made, and are now making, numerous and substantial purchases of food products for

their own account for resale from various packers or sellers, on which purchases they have received and accepted, and are now receiving and accepting, directly or indirectly, something of value as a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

For example, respondents make substantial purchases of citrus fruit for their own account from a number of packers located in the State of Florida and receive from the packers 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, respondents receive a lower price from the packer which reflects said brokerage or commission.

PAR. 5. The acts and practices of respondents in receiving and accepting a brokerage or commission, or an allowance or discount in lieu thereof, on their 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 respondents 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 respondents and counsel supporting the complaint, which agreement contains an order to cease and desist, an admission by the respondents 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 respondents that they have 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. Respondents Richard B. Yankee and Beulah M. Yankee are individuals and are copartners doing business as Yankee Brokerage Company under and by virtue of the laws of the State of Missouri, with their office and principal place of business located at 205-07 Merchants Produce Bank Building, in the City of Kansas City, State of Missouri.

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

Complaint

59 F.T.C.

ORDER

It is ordered, That respondents Richard B. Yankee and Beulah M. Yankee, individually and as copartners doing business as Yankee Brokerage Company, and respondents' 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 afore-said 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 respondents are the agents, representatives, or other intermediaries acting for or in behalf, or are subject to the direct or indirect control, of any buyer.

It is further ordered, That the 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 this order.

IN THE MATTER OF

WALDEN-SPARKMAN, INC., ET AL.

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

Docket 8143. Complaint, Oct. 13, 1960—Decision, Sept. 29, 1961

Consent order requiring Dover, Fla., brokers of citrus fruit and produce to cease violating Sec. 2(c) of the Clayton Act by accepting from Florida suppliers unlawful brokerage on their own purchases for resale, such as a discount at the rate of 10 cents per 1½ bushel box, or equivalent, or a lower price reflecting such commission.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent 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. Respondent Walden-Sparkman, Inc., is a corporation organized, existing and doing business under and by virtue of the

laws of the State of Florida with office and principal place of business located at Dever, Florida, with mailing address at Post Office Box 98, Dover, Florida.

Respondent P. D. Walden is president of corporate respondent Walden-Sparkman, Inc., respondent John B. Simpson is vice president of corporate respondent Walden-Sparkman, Inc., and respondent W. B. Sparkman, Jr. is secretary and treasurer of corporate respondent Walden-Sparkman, Inc. The business address of the individual respondents is the same as that of the corporate respondent. Said individual respondents, at all times hereinafter mentioned, have directed and controlled the acts, practices and policies of the corporate respondent, including the acts and practices hereinafter mentioned.

Prior to the organization and incorporation of respondent Walden-Sparkman, Inc., respondent W. B. Sparkman, Jr. was trading and doing business in an individual capacity as W. B. Sparkman, Jr. with office and principal place of business located at Plant City, Florida, with mailing address at Post Office Box 1549, Plant City, Florida. The business formerly conducted by W. B. Sparkman, Jr. is now conducted by the corporate respondent Walden-Sparkman, Inc.

PAR. 2. Respondent Walden-Sparkman, Inc., by and through the individual respondents named herein, is engaged in business as a buying broker purchasing citrus fruit and produce for its own account for resale. Prior to the organization and incorporation of respondent Walden-Sparkman, Inc., respondent W. B. Sparkman, Jr., in an individual capacity, was engaged in business as a buying broker purchasing citrus fruit and produce for his own account for resale.

Respondent Walden-Sparkman, Inc. also operates a retail farm supply business located at Dover, Florida, but that part of its operations is not involved herein.

PAR. 3. In the course and conduct of its business respondent Walden-Sparkman, Inc. has purchased citrus fruit and produce for its own account for resale from various packers located in the State of Florida and respondent has, directly or indirectly, caused such citrus fruit and produce, when purchased and sold, to be transported from various packers' places of business or from respondent's place 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 months, 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, but more particularly since October 1959 to the present time, respondent Walden-Sparkman, Inc. has made, and is now making, numerous and substantial purchases of citrus fruit and produce for

its own account 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, said respondent has made substantial purchases of citrus fruit for its 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 $1\frac{3}{4}$ bushel box, or equivalent. In many instances, respondent receives a lower price from the packers or sellers which reflects said brokerage or commission.

For several years prior to October 1959 respondent W. B. Sparkman, Jr. 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 $1\frac{3}{4}$ bushel box, or equivalent. In many instances said respondent received a lower price from the packers or sellers which reflected said brokerage or commission.

PAR. 5. The acts and practices of respondents, and each of them, in receiving and accepting a brokerage or commission, or an allowance or discount in lieu thereof, on their 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 respondents 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 respondents and counsel supporting the complaint, which agreement contains an order to cease and desist, an admission by the respondents 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 respondents that they have 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 Walden-Sparkman, Inc., 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 in the City of Dover, State of Florida, with mailing address as Post Office Box 98, Dover, Florida.

Respondents P. D. Walden, John B. Simpson and W. B. Sparkman, Jr., are individuals and are officers of and maintain the same business address as that of said corporate respondent.

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

ORDER

It is ordered, That respondents Walden-Sparkman, Inc., a corporation, and its officers, and P. D. Walden, John B. Simpson and W. B. Sparkman, Jr., individually and as officers of Walden-Sparkman, Inc., and respondents' 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 respondents' own account, or where respondents are the agent, representative, or other intermediary acting for or in behalf, or are subject to the direct or indirect control, of any buyer.

It is further ordered, That the 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 this order.

IN THE MATTER OF
ROBERT WARREN CRUM
DOING BUSINESS AS BOB CRUM