

Complaint

59 F.T.C.

IN THE MATTER OF

SEYMOUR LUSTIG DOING BUSINESS AS SEYMOUR
LUSTIGCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2(c)
OF THE CLAYTON ACT*Docket 8214. Complaint, Dec. 8, 1960—Decision, Oct. 10, 1961*

Consent order requiring an Orlando, Fla., distributor-broker of citrus fruit and produce to cease violating Sec. 2(c) of the Clayton Act by unlawfully receiving brokerage or discounts in lieu of brokerage from various packers or sellers on purchases for his own account for resale, receiving a lower net price which reflected an allowance of brokerage, and receiving brokerage as the buyer's representative in numerous transactions.

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 Seymour Lustig is an individual doing business as Seymour Lustig under and by virtue of the laws of the State of Florida, with his office and principal place of business located at Orlando, Florida, with mailing address as Post Office Box 7505, Orlando, Florida.

PAR. 2. Respondent is now and for the past several years has been engaged in business as a distributor and selling agent, purchasing citrus fruit and produce for his 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 several states of the United States but more particularly the State of Florida.

PAR. 3. In the course and conduct of his business for the past several years, but more particularly since January 1, 1959, in the purchase, sale and distribution of food products for his own account, or for the account of buyers represented by respondent, respondent has directly or indirectly shipped and transported, or caused said food products when purchased or sold to be shipped or transported, from the 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 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 for 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 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 produce, 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 sellers a brokerage or commission, or an allowance or discount in lieu thereof, on his 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 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 Seymour Lustig is an individual doing business as Seymour Lustig under and by virtue of the laws of the State of Florida, with his office and principal place of business located at Orlando, Florida, with mailing address as Post Office Box 7505, Orlando, 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 Seymour Lustig, individually and doing business as Seymour Lustig, 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 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

JERRY GROSS DOING BUSINESS AS TRANSPARENT
GLASS COATINGS COMPANY