

(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
GEORGE W. REAVES, JR., DOING BUSINESS AS
GEORGE W. REAVES, JR

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

Docket 8208. Complaint, Dec. 7, 1960—Decision, Oct. 24, 1961

Consent order requiring a distributor of food products in Dallas, Tex., to cease violating Sec. 2(c) of the Clayton Act by receiving from suppliers brokerage on purchases for his own account for resale, such as a discount of 10 cents per 1½ bushel box of citrus fruit from Florida sellers.

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 George W. Reaves, Jr., is an individual doing business in his own name under and by virtue of the laws of

the State of Texas, with his office and principal place of business located at 910 South Pearl Street, Dallas, Texas.

PAR. 2. Respondent is now, and for the past several years has been, engaged in business primarily as a distributor, buying, selling and distributing, for his own account, citrus fruit, produce and other food products, all of which are hereinafter sometimes referred to as food products. Respondent purchases his food products from a large number of suppliers located in many sections of the United States.

In many transactions respondent also acts in the capacity of a broker, representing packer-principals, located in many sections of the United States, in the sale and distribution of their citrus fruits and produce, and is paid for his services in connection therewith the packers' usual rate of brokerage on the particular type of product sold. For example, some of the packer-principals so represented by respondent are citrus fruit packers located in the State of Florida. When so representing these packer-principals located in Florida, as their broker, respondent is paid for his services in connection with the sale of their citrus fruit, a brokerage or commission usually at the rate of 10 cents per 1 $\frac{3}{4}$ bushel box, or equivalent.

The annual volume of business done by respondent, both as a distributor and as a broker, is substantial.

PAR. 3. In the course and conduct of his business for the past several years, respondent has purchased and distributed, and is now purchasing and distributing, food products in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, from suppliers or sellers located in several States of the United States other than the State of Texas, in which respondent is located. Respondent transports, or causes such food products, when purchased, to be transported from the places of business or packing plants of his suppliers located in various other States of the United States to respondent who is located in the State of Texas, or to respondent's customers located in said State, or elsewhere. In addition, respondent, when representing packer-principals, has, 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 to respondent or to respondent's customers located in states other than the state of origin of the shipment. 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 for the past several years, but more particularly since January 1, 1958, respondent has been and is now making substantial purchases of food products for

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his own account for resale from some, but not all, of his suppliers, and on a large number of these purchases respondent has received and accepted, and is now receiving and accepting, from said suppliers a brokerage, commission, 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 suppliers or sellers located in the State of Florida and has received from these suppliers or sellers on said purchases, a brokerage or commission, or a discount in lieu thereof, usually at the rate of 10 cents per 1 $\frac{3}{5}$ bushel box, or equivalent. In many instances, respondent receives a lower price from the suppliers or sellers 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).

Messrs. Cecil G. Miles and Ernest G. Barnes supporting the complaint.

Mr. L. W. Anderson of Dallas, Tex., for respondent.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

The complaint in this proceeding alleges that the above-named respondent in the course and conduct of his business in commerce has violated Section 2 of the Clayton Act, as amended by the Robinson-Patman Act.

After issuance and service of the complaint, the above-named respondent, his attorney, and counsel supporting the complaint, entered into an agreement for a consent order. The agreement has been approved by the Director of the Bureau of Litigation. The agreement disposes of the matters complained about.

The pertinent provisions of said agreement are as follows: Respondent admits all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; the record herein shall consist solely of the complaint and the agreement; respondent waives the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondent waives further procedural steps before the hearing examiner and the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondent waives

any right to challenge or contest the validity of the order entered in accordance with the agreement and 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.

The undersigned hearing examiner having considered the agreement and proposed order, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondent George W. Reaves, Jr., is an individual doing business as George W. Reaves, Jr., under and by virtue of the laws of the State of Texas, with his office and principal place of business located at 910 South Pearl Street, Dallas, Texas.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent hereinabove named. The complaint states a cause of action against said respondent under the Clayton Act, as amended.

ORDER

It is ordered, That George W. Reaves, Jr., an individual doing business as George W. Reaves, Jr., 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 his 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.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, published May 6, 1955, as amended, the initial decision of the hearing examiner shall on the 24th day of October, 1961, become the decision of the Commission; and accordingly:

It is 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 the order to cease and desist.

Complaint

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IN THE MATTER OF

E. J. KORVETTE, INC., ET AL.

CONSENT ORDER, ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 8276. Complaint, Jan. 16, 1961—Decisions, Oct. 24, 1961

Identical orders consented to by a New York City department store chain, three men's retail clothing stores in California, and six New York City men's clothing manufacturers, and issued in default against four New York City men's clothing manufacturers, requiring them to cease engaging in a common course of action under which said chain arranged for the manufacturers to sew labels of the three fashionable California men's retail clothing stores into garments it purchased direct from the manufacturers and then falsely advertised the merchandise as previously stocked and offered for sale by the three retailers at stated "Original Prices" and the difference between those amounts and advertised lower prices as constituting a saving to purchasers; and

Further consent order requiring said chain to cease misrepresenting the sources, history, prices, and savings afforded purchasers of men's wearing apparel it sold under the above-described plan or otherwise.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondents named in the caption hereof and hereinafter more particularly designated and described, have violated the provisions of Section 5 of the Federal Trade Commission Act (U.S.C. Title 15, Section 45) and it appearing to the Commission that a proceeding by it in respect thereof would be to the interest of the public, hereby issues its complaint pursuant to its authority thereunder and charging as follows:

PARAGRAPH 1. Respondent E. J. Korvette, Inc., hereinafter referred to as respondent Korvette, is a corporation organized and existing under the laws of the State of New York, with its principal office and place of business located at 12 East 46th Street, New York, New York.

Respondent Korvette is now, and at all times material hereto has been, engaged in the business of operating a chain of department stores selling to the public various types of goods, wares and merchandise, including men's wearing apparel such as suits, topcoats, sport coats, slacks, dress and sport shirts, ties and sweaters (said men's wearing apparel is hereinafter referred to as apparel merchandise) in competition with other corporations, firms and individuals also engaged in selling to the public goods, wares and apparel merchandise of the same nature. Respondent Korvette, directly or through sub-