

Complaint

59 F.T.C.

IN THE MATTER OF

THOMAS F. LANNIN DOING BUSINESS AS LANNIN SALES
COMPANY, ETC.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2(c)
OF THE CLAYTON ACT*Docket C-54. Complaint, Dec. 27, 1961—Decision, Dec. 27, 1961*

Consent order requiring a Chicago selling agent for a number of manufacturers of automotive parts, supplies, and related products, doing business also as a wholesale distributor of such products, to cease accepting brokerage on purchases for his own account for resale, such as a commission of 7½ per cent of the sales price of oil measures, oil can spouts, and can crushers he bought for the account of his wholesale firm from the Swingspout Measure Co. for which he was a direct factory representative.

COMPLAINT

The Federal Trade Commission, having reason to believe that the respondent named in the caption hereof 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, Sec. 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Thomas F. Lannin is an individual doing business as Lannin Sales Company, a sole proprietorship. He is engaged in business as a manufacturer's representative, located at 55 East 23rd Street, Chicago, Illinois. Respondent, in such capacity, acts as the selling agent or broker for a number of manufacturer sellers of automotive parts, supplies and related products, located in various States of the United States other than and including the state of Illinois. When acting as a selling agent or broker, respondent receives a brokerage or commission in varying amounts from the manufacturers so represented.

Respondent Thomas F. Lannin also does business as a wholesale distributor of automotive parts, supplies and related products as a sole proprietorship under the name Trell Company, which business is located at 2300 South Michigan Avenue, Chicago, Illinois. Respondent, in such capacity, purchases for resale substantial quantities of automotive parts, supplies and related products from many of the seller principals represented by respondent. A substantial part of these purchases are made through his brokerage concern, the Lannin Sales Company, on which purchases he receives the usual commission or brokerage.

PAR. 2. In the course and conduct of his businesses, respondent acting as a selling agent or broker for various manufacturer sellers under the name Lannin Sales Company, and as a wholesale distributor under the name Trell Company, is engaged in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended. Respondent as a selling agent or broker for various manufacturer sellers located in several states of the United States other than and including the State of Illinois, negotiates the sale of automotive parts, supplies and related products, and causes said products, when sold, to be transported from the place of business of these sellers to buyers located elsewhere. Respondent as a wholesale distributor purchases automotive parts, supplies and related products, from suppliers located in several states of the United States other than and including the State of Illinois and causes said products to be transported from the place of business of its suppliers to respondent or to respondent's customers located elsewhere. Thus, there has been at all times mentioned herein a continuous course of trade in commerce in the negotiation for sale, the sale, and the transportation of automotive parts, supplies and related products, across state lines, between respondent, the various manufacturer sellers and the respective customers of each.

PAR. 3. In the course and conduct of his business operated under the names, Lannin Sales Company and Trell Company, respondent has been and is now making substantial purchases of automotive parts, supplies and related products, for his own account for resale, from suppliers who utilize the services of respondent as a selling agent or broker, and on such purchases respondent has received and accepted, and is now receiving and accepting, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof. For example, respondent doing business as Lannin Sales Company is a direct factory representative of Swingspout Measure Company of Los Angeles, California, in the States of Ohio and Michigan. His compensation on sales negotiated on behalf of this supplier vary between $7\frac{1}{2}$ to 10 percent. At the same time, respondent purchases oil measures, oil can spouts, and can crushers from the Swingspout Measure Company for the account of his wholesale firm, the Trell Company, and on such purchases the respondent through his brokerage firm, Lannin Sales Company, receives a commission at the rate of $7\frac{1}{2}$ percent of the sales price.

PAR. 4. The acts and practices of respondent in receiving and accepting a brokerage or a commission, or an allowance or discount in lieu thereof, on his own purchases, as above 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).

Order

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DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of subsection (c) of Section 2 of the Clayton Act, as amended, and the respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form or order; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth 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 the law has been violated as set forth in the complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent, Thomas F. Lannin, is an individual doing business as Lannin Sales Company, located at 55 East 23rd Street, Chicago, Illinois, and Trell Company, located at 2300 South Michigan Avenue, Chicago, Illinois.

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

ORDER

It is ordered, That respondent Thomas F. Lannin, individually and doing business as the Lannin Sales Company and the Trell Company, and respondent's agents, representatives and employees, directly or through any corporate, partnership, sole proprietorship, or other device, in connection with the purchase of automotive parts, supplies and related products 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 automotive parts, supplies and related products 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 Com-

