

IN THE MATTER OF

GEORGE C. PALMER CO., INC., ET AL.

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

Docket C-64. Complaint, Jan. 17, 1962—Decision, Jan. 17, 1962

Consent order requiring a Minneapolis wholesale distributor of citrus fruit, produce, and other food products, to cease accepting illegal brokerage on purchases for its own account, such as a discount of 10 cents per 1 $\frac{3}{5}$ bushel box of citrus fruit from Texas packers, or a lower price reflecting such commission.

Complaint

60 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, Sec. 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent George C. Palmer Co., Inc., is a corporation organized on October 1, 1960, existing and doing business under and by virtue of the laws of the State of Minnesota with its offices and principal place of business located at 4300-B West 361½ Street, Minneapolis, Minn.

The corporate respondent is successor to George C. Palmer Brokerage Co., Inc., a corporation organized on January 5, 1953. Respondent Oscar Edward Johnson served as Vice President of the predecessor corporation.

Respondent Oscar Edward Johnson is an individual and is president of the corporate respondent, and owns substantially all of its capital stock. As president and substantial owner, he formulates, directs and controls the acts, practices, and policies of the said corporate respondent, including the acts and practices hereinafter mentioned. Such corporate respondent and individual respondent are hereinafter jointly referred to as respondents.

PAR. 2. Respondents are now, and for the past several years have been, engaged in business primarily as a wholesale distributor, buying, selling and distributing citrus fruit, produce, and other food products, all of which are hereinafter sometimes referred to as food products. Respondents purchase their food products from a large number of suppliers located in many sections of the United States. The annual volume of business done by respondents in the purchase and sale of food products is substantial.

PAR. 3. In the course and conduct of their business for the past several years, respondents have purchased and distributed, and are 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 Minnesota, in which respondents are located. Respondents transport or cause such products, when purchased, to be transported from the places of business or packing plants of their suppliers located in various other states of the United States to respondents who are located in the State of Minnesota, or to respondents'

customers located in said state, or elsewhere. Thus, there has been at all times mentioned herein a continuous course of trade in commerce in the purchase of said food products across state lines between respondents and their respective suppliers of such food products.

PAR. 4. In the course and conduct of their business for the past several years, but more particularly since October 1, 1960, respondents have been and are now making substantial purchases of food products for their own account for resale from some, but not all, of their suppliers, and on a large number of these purchases respondents have received and accepted, and are now receiving and accepting, from said suppliers 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 from a number of packers or suppliers located in the State of Texas, and receive 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 respondents receive a lower price from the supplier which reflects said commission or brokerage.

PAR. 5. The acts and practices of respondents in receiving and accepting a brokerage or a commission, or an allowance or discount in lieu thereof, on its 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, Sec. 13).

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of subsection (c) of Section 2 of the Clayton Act, as amended, and the respondents 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 of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as set forth in such 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:

Syllabus

60 F.T.C.

1. Respondent George C. Palmer Co., Inc., is a corporation organized on October 1, 1960, existing and doing business under and by virtue of the laws of the State of Minnesota with its office and principal place of business located at 4300-B West 36½ Street, Minneapolis, Minn.

Respondent Oscar Edward Johnson is President of said corporation and his address is the same as that of said corporation.

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

ORDER

It is ordered, That respondent George C. Palmer Co., Inc., a corporation, and its officers, and Oscar Edward Johnson, individually and as an officer of George C. Palmer Co., Inc., and respondents' 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 respondents' 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.