

Complaint

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Maid Groves Corporation, a corporation, 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 the order to cease and desist.

IN THE MATTER OF
BRIDGEPORT BRASS COMPANY

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

Docket 7842. Complaint, Mar. 23, 1960—Decision, Mar. 7, 1962

Consent order requiring the legal successor through merger of a manufacturer of brass, copper, and aluminum products, including tubular plumbing brass goods and copper water tubing, with annual sales in excess of \$135,000,000, to cease discriminating among competing purchasers of its plumbing products in violation of Sec. 2(d) of the Clayton Act by paying sums amounting to \$4,950 to the American Radiator and Standard Sanitary Corp. for promoting products on television programs in the four trading areas of Dallas, Tex.; St. Louis, Mo.; New Orleans, La.; and Pittsburgh, Pa., without making comparable payments available to competitors of American Radiator.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly designated and described, has violated and is now violating the provisions of subsection (d) 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 Bridgeport Brass Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Connecticut, with its principal office and place of business located at 30 Grand Street, Bridgeport, Conn.

PAR. 2. Respondent is now and has been engaged in the manufacture, sale and distribution of brass, copper and aluminum products, including tubular plumbing brass goods and copper water tubing.

Respondent sells its products of like grade and quality to a large number of customers located throughout the United States for use or resale therein. Respondent's sales of its products are substantial, exceeding \$135,000,000 annually.

PAR. 3. Respondent, in the course and conduct of its business as aforesaid, has caused and now causes its said products to be shipped and transported from the state or states of location of its various manufacturing plants, warehouses and places of business, to purchasers thereof located in states other than the state or states wherein said shipment or transportation originated. There has been at all times mentioned herein a continuous course of trade in commerce, as "commerce" is defined in the Clayton Act as amended.

PAR. 4. In the course and conduct of its business in commerce, since January 1, 1957, respondent has paid or contracted for the payment of something of value to or for the benefit of certain of its customers as compensation or in consideration for services or facilities furnished by or through such customers in connection with their offering for sale or sale of products sold to them by respondent, and such payments have not been offered or otherwise made available on proportionally equal terms to all other customers competing in the sale and distribution of respondent's products.

PAR. 5. For example, between May, 1957, and April, 1959, respondent contracted to pay, and periodically did pay, sums amounting to \$4,950.00 to the American Radiator and Standard Sanitary Corporation for services and facilities furnished it by American Radiator and Standard Sanitary Corporation in promoting the sale of respondents' products through television programs sponsored by American Radiator and Standard Sanitary Corporation in the trading areas of Dallas, Tex.; St. Louis, Mo.; New Orleans, La.; and Pittsburgh, Pa. Such payments were not offered or otherwise made available on proportionally equal terms to all other customers competing with American Radiator and Standard Sanitary Corporation in the sale and distribution of products of like grade and quality purchased from respondent.

PAR. 6. The acts and practices of respondent, as alleged herein, are in violation of subsection (d) of Section 2 of the Clayton Act, as amended by the Robinson Patman Act.

Mr. John Perry supporting the complaint.

Donovan Leisure Newton & Irvine, by *Mr. Walter R. Mansfield* for respondent.

INITIAL DECISION BY WALTER K. BENNETT, HEARING EXAMINER

The complaint in this matter was issued March 23, 1960. It charged respondent Bridgeport Brass Company ¹ (to which name the appendage Inc. was erroneously added) with paying sums aggregating \$4,950

¹ Erroneously described as Bridgeport Brass Company, Inc., in the complaint.

Initial Decision

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to American Radiator and Standard Sanitary Corporation for services and facilities in furnishing television programs in four designated trading areas. Such payments allegedly were not made available on proportionally equal terms to all other customers in violation of subsection (d) of Section 2 of the Clayton Act.

On January 17, 1962, counsel presented to the undersigned an agreement dated January 5, 1960, executed by respondent's successor, its counsel, and counsel supporting the complaint. Said agreement was duly approved by the Director of the Bureau of Restraint of Trade, the Assistant Director and the Chief of the Division of Discriminatory Practices.

On August 25, 1961, the parties filed a notice with the Secretary that they wished to avail themselves of the privilege of disposing of this matter by the execution of an agreement containing a consent order to cease and desist. Under the Rules of Practice, prior proceedings were had which caused the case to remain with the hearing examiner.

The hearing examiner finds that said agreement includes all of the provisions required by Section 3.25(b) of the Rules of the Commission, that is:

A. An admission by respondent of all jurisdictional facts alleged in the complaint.

B. Provisions that:

1. The complaint may be used in construing the terms of the order;
2. The order shall have the same force and effect as if entered after a full hearing;
3. The 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;
4. The entire record on which any cease and desist order may be based shall consist solely of the complaint and the agreement;
5. The order may be altered, modified, or set aside in the manner provided by statute for other orders.

C. Waivers of:

1. The requirement that the decision must contain a statement of findings of fact and conclusions of law;
2. Further procedural steps before the hearing examiner and the Commission;
3. Any right to challenge or contest the validity of the order entered in accordance with the agreement.

In addition the agreement contains the following provisions:

Initial Decision

A. A statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

B. National Distillers & Chemical Corporation is the legal successor to Bridgeport Brass Company, and as such it herewith and hereby assumes all of the obligations and duties of Bridgeport Brass Company, including compliance with the order to cease and desist contained herein.

C. Pursuant to the provisions of subsection (d) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act (U.S.C. Title 15, Sec. 13), the Federal Trade Commission, on March 23, 1960, issued its complaint in this proceeding against Bridgeport Brass Company, and a true copy of said complaint was duly served on the aforementioned Bridgeport Brass Company. Respondent National Distillers & Chemical Corporation, as legal successor of Bridgeport Brass Company, herewith and hereby waives amendment of the complaint and service of process and agrees that the service of a true copy of the complaint against Bridgeport Brass Company shall have the same legal force and effect as though it were served upon respondent National Distillers & Chemical Corporation, and that respondent National Distillers & Chemical Corporation, as such legal successor, shall be and is legally bound by the service of a true copy of the complaint upon Bridgeport Brass Company, as though a copy of said complaint was served upon National Distillers & Chemical Corporation.

D. Counsel supporting the complaint does not have available evidence in support of the complaint as to any of respondent's product lines other than plumbing goods, water tubing used for plumbing, and related plumbing products, nor is there available any evidence indicating that practices similar to those alleged to have been used in connection with the sale of plumbing goods, water tubing used for plumbing, and related plumbing products, exist as to any other of respondent's product lines. The complaint generally alleges that respondent is engaged in the manufacture, sale and distribution of brass, copper and aluminum products, and is specifically directed at tubular plumbing brass goods and copper water tubing. The following order prohibits the practices challenged in the complaint in connection with the offering for sale, sale or distribution of plumbing goods, water tubing used for plumbing, and related plumbing products. This constitutes complete coverage of the practices which formed the basis for issuance of the complaint. Although Bridgeport Brass Company was a multiple-product line company, and that fact is recognized in paragraph 2 of the complaint, wherein a complete listing was made of Bridgeport

Brass Company's products by type of metal used, the cause of action is actually centered only on the single product line of plumbing goods, water tubing used for plumbing, and related plumbing products, and the following order to cease and desist covers this product line completely.

Having considered said agreement, including the proposed order, and being of the opinion that it provides an appropriate basis for settlement and disposition of this proceeding; the hearing examiner hereby accepts the agreement but orders that it shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

The following jurisdictional findings are made and the following order issued:

1. Bridgeport Brass Company (erroneously named in the complaint as Bridgeport Brass Company, Inc.) was a corporation organized, existing and doing business under and by virtue of the laws of the State of Connecticut, with its office and principal place of business located at 30 Grand Street, Bridgeport, Conn.

2. National Distillers & Chemical Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its office and principal place of business located at 99 Park Avenue, New York, N.Y.

3. On June 30, 1961, Bridgeport Brass Company was merged into and with National Distillers & Chemical Corporation. From that time on, Bridgeport Brass Company ceased to exist as an independent corporation doing business under and by virtue of the laws of the State of Connecticut, and became instead a division of National Distillers & Chemical Corporation (the surviving corporation from the merger), known as Bridgeport Brass Company, Division of National Distillers & Chemical Corporation.

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

ORDER

It is ordered, That respondent, National Distillers & Chemical Corporation, a corporation (the legal successor to Bridgeport Brass Company), and its officers, employees, agents and representatives, directly or through any corporate or other device, in or in connection with the offering for sale, sale or distribution of plumbing goods, water tubing used for plumbing, and related plumbing products in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from:

Paying or contracting for the payment of anything of value to, or for the benefit of, any customers of respondent as compensation or in consideration for any services or facilities furnished by or through such customers in connection with the handling, offering for sale, sale or distribution of said products, unless such payment or consideration is affirmatively made available on proportionally equal terms to all other customers competing in the distribution of such products.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having considered the hearing examiner's initial decision, filed January 26, 1962, accepting an agreement containing a consent order theretofore executed by respondent and by counsel supporting the complaint; and

It appearing that the purported summarization of the charges in the complaint set forth in the first paragraph of the initial decision is in error; and that through inadvertence the date "January 5, 1960" is given in the initial decision as the date of the agreement; and

The Commission being of the opinion that these errors should be corrected:

It is ordered, That the initial decision be, and it hereby is, amended by striking the second and third sentences of the first paragraph of said decision and substituting therefor the following:

"It charged that respondent Bridgeport Brass Company (to which name the appendage 'Inc.' was erroneously added) in the course and conduct of its business in commerce has violated subsection (d) of Section 2 of the Clayton Act, as amended."

It is further ordered, That the initial decision be, and it hereby is, amended by striking the date "January 5, 1960" as it appears in the second line of the second paragraph of said decision and substituting therefor the date "January 5, 1962."

It is further ordered, That the initial decision, as so amended, shall, on the 7th day of March 1962, become the decision of the Commission.

It is further ordered, That the respondent, National Distillers & Chemical Corporation, a corporation, successor to respondent Bridgeport Brass Company, shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist.

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IN THE MATTER OF

NEW YORK FASHION ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS

Docket C-91. Complaint, Mar. 7, 1962—Decision, Mar. 7, 1962

Consent order requiring Waterloo, Iowa, furriers to cease violating the Fur Products Labeling Act by failing to show on invoices and in newspaper advertising the true names of animals producing certain furs, and when fur products contained artificially colored or cheap or waste fur; failing to show the country of origin of imported furs on invoices; advertising prices of fur products falsely as reduced from regular prices when the latter were fictitious, and as "sale priced a fraction above wholesale cost"; failing to keep adequate records as a basis for price and value claims; and failing in other respects to comply with invoicing and advertising requirements.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that New York Fashion, a corporation, and Edmond Dantes, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. New York Fashion is a corporation organized, existing and doing business under and by virtue of the laws of the State of Iowa with its office and principal place of business located at 220 East Fourth Street, Waterloo, Iowa. Edmond Dantes is vice president of the said corporate respondent and controls, formulates and directs the acts, practices and policies of the said corporate respondent.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been and are now engaged in the introduction into commerce and in the sale, advertising, and offering for sale, in commerce, and in the transportation and distribution, in commerce, of fur products; and have sold, advertised, offered for sale, transported and distributed fur products, which have been made in whole or in part of fur which had been shipped and received in commerce, as the terms "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said fur products were falsely and deceptively invoiced by the respondents in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act, and the Rules and Regulations promulgated under such Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were invoices pertaining to such fur products which failed:

1. To show the true animal name of the fur used in the fur product.
2. To disclose that the fur contained in the fur products was bleached, dyed, or otherwise artificially colored, when such was the fact.
3. To show that the fur contained in the fur products was composed in whole or in substantial part of paws, tails, bellies or waste fur, when such was the fact.
4. To show the country of origin of the imported furs used in the fur products.

PAR. 4. Certain of said fur products were falsely and deceptively invoiced in violation of the Fur Products Labeling Act in that they were not invoiced in accordance with the Rules and Regulations promulgated thereunder in that required item numbers were not set forth on invoices, in violation of Rule 40 of said Rules and Regulations.

PAR. 5. Certain of said fur products were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that respondents caused the dissemination in commerce, as "commerce" is defined in said Act, of certain newspaper advertisements, concerning said products, which were not in accordance with the provisions of Section 5(a) of the said Act and the Rules and Regulations promulgated thereunder; and which advertisements were intended to aid, promote and assist, directly or indirectly, in the sale and offering for sale of said fur products.

PAR. 6. Among and included in the advertisements as aforesaid, but not limited thereto, were advertisements of respondents, which appeared in issues of the Waterloo Daily Courier, a newspaper published in the city of Waterloo, State of Iowa, and having a wide circulation in said State and various other States of the United States.

By means of said advertisements and others of similar import and meaning, not specifically referred to herein, respondents falsely and deceptively advertised fur products in that said advertisements:

- (a) Failed to disclose the name or names of the animal or animals that produced the fur contained in the fur product as set forth in the

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Fur Products Name Guide, in violation of Section 5(a)(1) of the Fur Products Labeling Act.

(b) Failed to disclose that fur products contained or were composed of bleached, dyed or otherwise artificially colored fur, when such was the fact, in violation of Section 5(a)(3) of the Fur Products Labeling Act.

(c) Contained information required under Section 5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form, in violation of Rule 4 of said Rules and Regulations.

(d) Failed to disclose that fur products were composed in whole or in substantial part of flanks when such was the fact, in violation of Rule 20 of said Rules and Regulations.

(e) Failed to set forth information required under Section 5(a) of the Fur products Labeling Act and the Rules and Regulations promulgated thereunder in type of equal size and conspicuousness and in close proximity with each other, in violation of Rule 38(a) of said Rules and Regulations.

(f) Represented prices of fur products as having been reduced from regular or usual prices where the so-called regular or usual prices were in fact fictitious in that they were not the prices at which said merchandise was usually sold by respondents in the recent regular course of business, in violation of Section 5(a)(5) of the Fur Products Labeling Act and Rule 44(a) of said Rules and Regulations.

(g) Represented prices of fur products to be "every item—sale priced a fraction above wholesale cost" when such was not the fact, in violation of Section 5(a)(5) of the Fur Products Labeling Act.

PAR. 7. Respondents in advertising fur products for sale as aforesaid, made claims and representations respecting prices and values of fur products. Said representations were of the types covered by subsections (a), (b), (c) and (d) of Rule 44 of the Rules and Regulations promulgated under the Fur Products Labeling Act. Respondents in making such claims and representations failed to maintain full and adequate records disclosing the facts upon which such claims and representations were based, in violation of Rule 44(e) of said Rules and Regulations.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair and deceptive acts and practices and unfair methods of competition in commerce under the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act and the Fur Products Labeling Act, 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, 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 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 New York Fashion is a corporation organized, existing and doing business under and by virtue of the laws of the State of Iowa, with its office and principal place of business located at 220 East Fourth Street, Waterloo, Iowa.

Respondent Edmond Dantes is an officer of said corporate respondent, and his office and principal place of business is the same as that of said corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents New York Fashion, a corporation and its officers, and Edmond Dantes, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the sale, advertising, offering for sale, transportation, or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Falsely or deceptively invoicing fur products by:

A. Failing to furnish invoices to purchasers of fur products showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

B. Failing to set forth the item number or mark assigned to a fur product.

2. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement or notice which is intended to aid, promote or assist, directly or indirectly, in the sale, or offering for sale of fur products, and which:

A. Fails to disclose:

(1) The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide, and as prescribed under the Rules and Regulations.

(2) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact.

B. Sets forth information required under Section 5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form.

C. Fails to disclose that fur products are composed in whole or in substantial part of flanks, when such is the fact.

D. Fails to set forth the information required under Section 5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in type of equal size and conspicuousness and in close proximity with each other.

E. Represents, directly or by implication, that the regular or usual price of any fur product is any amount which is in excess of the price at which respondents have usually and customarily sold such products in the recent regular course of business.

F. Represents directly or by implication that prices of fur products are "sale priced a fraction above wholesale cost" or words of similar import, when such is not the fact.

3. Making claims and representations of the types covered by subsections (a), (b), (c) and (d) of Rule 44 of the Rules and Regulations promulgated under the Fur Products Labeling Act unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.

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.

Complaint

IN THE MATTER OF

LEC ELECTRIC COMPANY, INC., ET AL.

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

Docket C-92. Complaint, Mar. 7, 1962—Decision, Mar. 7, 1962

Consent order requiring Dallas, Tex., distributors of automobile parts to jobbers and retailers for resale to cease selling automobile parts which they had rebuilt or reconditioned without any marking or other disclosure to show their used nature, and with only small inconspicuous notice, if any, on cartons, far removed from the name of the parts; advertising such products without such disclosure as they did in "The Independent Garageman", a trade paper of wide circulation; and failing to make disclosure of used nature in invoices listing rebuilt parts.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Lec Electric Company, Inc., a corporation, and Lec Albert Wells, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Lec Electric Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its principal office and place of business located at 2615 Good-Latimer Expressway, P.O. Box 9067, in the city of Dallas, State of Texas.

Respondent Lec Albert Wells is an officer of the corporate respondent. He formulates the policies and directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of automobile parts to distributors and jobbers and to retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of Texas to purchasers thereof located in various other States of the