

Complaint

60 F.T.C.

IN THE MATTER OF
SOFSKIN, INC.

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

Docket C-109. Complaint, Apr. 2, 1962—Decision, Apr. 2, 1962

Consent order requiring a manufacturer of hand creams and related products, with principal place of business in New York City, to cease violating Sec. 2(d) of the Clayton Act by such practices as paying promotional allowances of \$1400 to McKesson & Robbins, Inc., while not making such payments available on proportionally equal terms to all competing customers.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly described, has violated and is now violating 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), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Sofskin, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 595 Madison Avenue, New York, N.Y.

PAR. 2. Respondent is now and has been engaged in the business of manufacturing, selling and distributing hand creams and related products. It sells its products to drug and sundries wholesalers located throughout the United States. Respondent's total sales are substantial, having exceeded \$650,000 in the year 1959.

PAR. 3. In the course and conduct of its business respondent has engaged and is now engaging in commerce as "commerce" is defined in the Clayton Act, as amended, in that respondent sells and causes its products to be transported from the respondent's principal place of business located in New York, to customers located in other states of the United States.

PAR. 4. In the course and conduct of its business in commerce, respondent paid or contracted for the payment of something of value to or for the benefit of some 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 were not made available on proportionally equal terms to all other customers competing in the sale and distribution of respondent's products.

PAR. 5. For example, during the year 1959 respondent contracted to pay and did pay to McKesson & Robbins, Inc., at least \$1,400 as compensation or as an allowance for advertising or other services or facilities furnished by or through McKesson & Robbins, Inc., in connection with its offering for sale or sale of products sold to it by respondent. Such compensation or allowance was not offered or otherwise made available on proportionally equal terms to all other customers competing with McKesson & Robbins, Inc., in the sale and distribution of products purchased from respondent.

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

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of subsection (d) 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 of 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 to issue herein, 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 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:

1. Respondent Sofskin, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 595 Madison Avenue, New York, N. Y.

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

ORDER

It is ordered, That respondent Sofskin, Inc., a corporation, its officers, employees, agents and representatives, directly or through

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any corporate or other device, in the course of business 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 customer of respondent as compensation or in consideration for advertising or any other services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of hand creams and related products manufactured, sold or offered for sale by respondent, unless such payment or consideration is made available on proportionally equal terms to all other customers competing with such favored customer in the distribution of such products.