

IN THE MATTER OF
O.E.M. PRODUCTS COMPANY ET AL.

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

Docket C-127. Complaint, Apr. 26, 1962—Decision, Apr. 26, 1962

Consent order requiring a Chicago distributor of automotive parts, supplies, and related products to cease violating Sec. 2(c) of the Clayton Act by accepting brokerage on substantial purchases for its own account for resale from suppliers—utilizing the services of its vice president and main stockholder who operated a sole proprietorship at the same address and functioned as a manufacturer's representative or selling agent—such as, for example, compensation of five percent on purchases of hose from the Acme-Hamilton Manufacturing Corporation of Trenton, N.J.

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 O.E.M. Products Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 5296 Northwest Highway, Chicago 30, Ill. O.E.M. Products Company is engaged in the sale and distribution of automotive parts, supplies and related products, with a sales volume of approximately \$500,000 annually. O.E.M. Products Company purchases the automotive parts, supplies and related products which it sells and distributes from various manufacturers located throughout the United States.

Respondent Robert C. Sanderson is vice president and secretary, and owns eighty percent of the corporate stock of respondent O.E.M. Products Company. In addition, respondent Robert C. Sanderson owns, controls and operates Robert C. Sanderson Company, a sole proprietorship, with offices and principal place of business also located at 5296 Northwest Highway, Chicago 30, Ill. Robert C. Sanderson Company functions as a manufacturer's representative, or selling agent, or broker, for various manufacturers of automotive parts, supplies and related products. In the operation of Robert C. Sanderson Company, respondent Robert C. Sanderson negotiates the sale of automotive parts, supplies and related products for and on behalf of various manufacturer-sellers and in connection therewith receives a commission or brokerage fee paid by said manufacturer-sellers.

PAR. 2. In the course and conduct of its business respondent O.E.M. Products Company has purchased and is now purchasing automotive parts, supplies and related products in commerce, as "commerce" is defined in the aforesaid Clayton Act, from sellers located in various states of the United States other than the state in which respondent is located, and has resold such products to customers likewise located in various states other than that in which respondent is located. Said respondent transports or causes such products, when purchased or resold, to be transported from the places of business of its suppliers to its own place of business, or from its own place of business to the places of business of its customers, located in various other states of the United

States. Thus there has been a course of trade in commerce, and said products, across state lines between respondent O.E.M. Products Company and its suppliers, and between said respondent and its customers.

Respondent Robert C. Sanderson, operating under the name Robert C. Sanderson Company, as a selling agent or broker for various manufacturer-sellers located in various 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 Robert C. Sanderson, operating under the name Robert C. Sanderson Company, is engaged in commerce, as "commerce" is defined in the aforesaid Clayton Act.

PAR. 3. In the course and conduct of its business respondent O.E.M. Products Company has made substantial purchases of automotive parts, supplies and related products, for its own account for resale, from suppliers who utilize the services of respondent Robert C. Sanderson, operating under the name Robert C. Sanderson Company, as manufacturer's representative, selling agent or broker, and on such purchases respondent Robert C. Sanderson has received and accepted, and is now receiving and accepting, a commission, brokerage or other compensation. Thus respondent Robert C. Sanderson receives a commission, brokerage or other allowance on purchases of respondent O.E.M. Products Company, a corporation, eighty percent of the corporate stock of which is owned by respondent Robert C. Sanderson. Therefore, through the corporate device of respondent O.E.M. Products Company, respondent Robert C. Sanderson has received and accepted, and is now receiving and accepting, a commission, brokerage or other compensation, or an allowance or discount in lieu thereof, on purchases for his own account. For example, respondent O.E.M. Products Company purchases hose, through Robert C. Sanderson Company, from the Acme-Hamilton Manufacturing Corporation of Trenton, New Jersey. Robert C. Sanderson Company's compensation on sales negotiated on behalf of this supplier is five percent and on such sales respondent Robert C. Sanderson, through the Robert C. Sanderson Company, receives the aforesaid commission.

PAR. 4. The acts and practices of respondents in receiving and accepting a brokerage or a commission, or an allowance or discount in lieu thereof, on their 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:

1. Respondent O.E.M. Products Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 5296 Northwest Highway, in the city of Chicago, State of Illinois.

Respondent Robert C. Sanderson is an officer of said corporation. He also does business as Robert C. Sanderson Company and his address is the same as that of the corporate respondent.

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

ORDER

It is ordered, That respondents O.E.M. Products Company, a corporation, and Robert C. Sanderson, individually and as an officer of said corporation, and also doing business as Robert C. Sanderson Company, a sole proprietorship, and respondents' agents, representatives and employees, directly or through any corporate 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

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any allowance or discount in lieu thereof, upon or in connection with any purchase of automotive parts, supplies and related products for respondents' own account, or where any of said respondents are the agent, representative, or other intermediary acting for or in behalf, or is subject to the direct or indirect control, of the 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.

IN THE MATTER OF

B & P ASSOCIATES OF CONNECTICUT, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE TEXTILE FIBER PRODUCTS IDENTI-
FICATION ACTS

Docket C-128. Complaint, Apr. 26, 1962—Decision, Apr. 26, 1962

Consent order requiring importers and distributors of textile fiber products, with offices in Unionville, Conn., and New York City, to cease violating the Textile Fiber Products Identification Act by failing to label ladies' swimsuits with required information.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said acts, the Federal Trade Commission, having reason to believe that B & P Associates of Connecticut, Inc., a corporation, and Samuel R. Perman and Herbert A. Berk, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Textile Fiber Products Identification 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 B & P Associates of Connecticut, Inc., is 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 in Myrtle Mills Factory Store, Unionville, Conn.

Individual respondents Samuel R. Perman and Herbert A. Berk are President, and Vice President—Secretary and Treasurer respectively, of corporate respondent. Said individual respondents formulate, direct and control the acts, practices and policies of said corporate respondent. Said individual respondents' business address is 17 John Street, New York, N.Y.

PAR. 2. Subsequent to the effective date of the Textile Fiber Products Identification Act on March 3, 1960, respondents have been and are now engaged in the introduction, delivery for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, and the importation into the United States, of textile fiber products; and have sold, offered for sale, advertised, delivered, transported, and caused to be transported, textile fiber products, which have been advertised or offered for sale in commerce; and have sold, offered for sale, advertised, delivered, transported, and caused to be transported, after shipment in commerce, textile fiber products, either in their original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

PAR. 3. Certain of said textile fiber products, namely ladies' swimsuits, were misbranded by respondents in that they were not stamped, tagged or labeled with any of the information required under Section 4(b) of the Textile Fiber Products Identification Act, or in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

PAR. 4. The acts and practices of respondents as set forth above were, and are, in violation of the Textile Fiber Products Identification Act and Rules and Regulations promulgated thereunder and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of 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 Textile Fiber Products Identification 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

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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:

1. Respondent, B & P Associates of Connecticut, Inc., is 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 in Myrtle Mills Factory Store, in the city of Unionville, State of Connecticut.

Respondents Samuel R. Perman and Herbert A. Berk are officers of said corporation, and their business address is 17 John Street, New York, N.Y.

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 B & P Associates of Connecticut, Inc., a corporation, and its officers, and Samuel R. Perman and Herbert A. Berk, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product, which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from misbranding

textile fiber products by failing to affix labels to such products showing each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.