

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
EDINBURG CITRUS ASSOCIATION

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

Docket C-131. Complaint, May 8, 1962—Decision, May 8, 1962

Consent order requiring an Edinburg, Tex., packer of citrus fruit to cease violating Sec. 2(c) of the Clayton Act by paying commissions to its brokers and other direct buyers purchasing for their own account for resale.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly described, 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 Edinburg Citrus Association is a corporation organized, existing and doing business under and by virtue of the laws of the state of Texas, with its office and principal place of business located in Edinburg, Tex., with mailing address as P.O. Box 127, Edinburg, Tex.

PAR. 2. Respondent is now and for the past several years has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are sometimes referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers, retailers, commission merchants as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them for their services usually at the rate of 10 cents per $1\frac{1}{2}$ bushel box, or the equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Texas in which respondent is located. Respondent transports, or causes such citrus fruit, when sold, to be transported from its place of business or packing plant, or other places within the State of Texas, to such buyers, or to the buyers' customers, located in various other states of the United States. Thus there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit across state lines between respondent and the respective buyers of such citrus fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales to some, but not all, of its brokers and other direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and other direct buyers, on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent 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 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 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 Edinburg Citrus Association is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located in Edinburg, Tex., with mailing address as P. O. Box 127, Edinburg, Tex.

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

ORDER

It is ordered, That the respondent Edinburg Citrus Association, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from:

Paying, granting, or allowing, directly or indirectly to any buyer, or to anyone acting for or in behalf of or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

It is further ordered, That the respondent herein 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 this order.

Complaint

IN THE MATTER OF

MERIT MANUFACTURING COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT*Docket C-132. Complaint, May 8, 1962—Decision, May 8, 1962*

Consent order requiring distributors of sunglasses, with place of business in Central Falls, R.I., to cease representing falsely in advertising that lenses of their glasses were "6 base", "Tested and Approved" and "Safe Tested and Approved . . . for Children", gave "Safe Protection from the Most Powerful Rays of the Sun", and were "Guaranteed for Life"; and to disclose the foreign origin of lenses they imported from Japan.

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 Merit Manufacturing Company, Inc., a corporation, and Lionel Rabb, 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 Merit Manufacturing Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Rhode Island, with its main office and principal place of business located at 12 Cross Street, Central Falls, R.I.

Respondent Lionel Rabb is an officer of the corporate respondent. He formulates, 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 sunglasses.

PAR. 3. In the course and conduct of their business, respondents 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 Rhode Island to purchasers thereof located in various other states of the United States and in the District of Columbia, and maintain, and at all times mentioned herein have maintained, a substantial

Complaint

60 F.T.C.

course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, and for the purpose of inducing the sale of their sunglasses, respondents have made certain statements in advertisements, of which the following are typical but not all inclusive:

6 base lenses

Safe Tested and Approved Lenses for Children

Tested and Approved Lenses

Safe Protection from the Most Powerful Rays of the Sun

Lenses Guaranteed for Life

PAR. 5. Through the use of said advertisements, and others similar thereto not specifically set out herein, respondents have represented, and are now representing, directly and by implication, that:

1. Said sunglasses are equipped with lenses with a plus six diopter curve and a minus six diopter curve.

2. Said sunglasses have been tested and approved by an independent and disinterested optometric authority as being safe for children and adults to wear.

3. Said sunglasses protect the wearer from the harmful rays of the sun.

4. Said sunglasses are guaranteed by respondents in every respect.

PAR. 6. The said advertisements were, and are, false, misleading and deceptive. In truth and in fact:

1. The curvature of the lenses in said sunglasses varies significantly from a curve of 6 diopters plus and 6 diopters minus.

2. No independent and disinterested optometric authority has tested and approved said sunglasses.

3. Said sunglasses do not completely bar all such harmful rays from the eyes and complete protection accordingly is not afforded.

4. Said sunglasses are not guaranteed in every respect; moreover, a service charge is required for repairs, which fact is not disclosed by respondents.

PAR. 7. Certain of respondents' sunglasses are manufactured in Japan and imported into the United States. Said sunglasses are marked in such an indistinct manner as not to constitute adequate disclosure of the country of origin. Certain of respondents' sunglasses contain lenses manufactured in Japan. The fact that said sunglasses contain Japanese lenses is not disclosed by respondents.

PAR. 8. In the absence of an adequate disclosure that a product, including sunglasses, is of foreign origin, the public believes and understands that it is of domestic origin. A substantial number of the

1123

Decision and Order

purchasing public prefer domestic products over foreign products, including sunglasses.

PAR. 9. The failure of respondents to disclose, or adequately disclose, the foreign origin of their products has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said products are of domestic manufacture.

PAR. 10. In the course and conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of sunglasses of the same kind and general nature as those sold by respondents.

PAR. 11. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 12. The aforesaid acts and practices of respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5(a) (1) 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 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 Merit Manufacturing Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Rhode Island, with its office and principal place of business located at 12 Cross Street, in the city of Central Falls, State of Rhode Island.

Respondent Lionel Rabb is an officer 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, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Merit Manufacturing Company, Inc., a corporation, and its officers, and Lionel Rabb, 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 offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of sunglasses, do forthwith cease and desist from:

1. Representing, directly or by implication, that:

(a) Lenses of their sunglasses have a given diopter curve unless such is the fact; provided, however, that in the case of ground and polished sunglass lenses a tolerance not to exceed minus or plus $\frac{1}{16}$ th diopter in any meridian and a difference in power between any two meridians not to exceed $\frac{1}{16}$ th diopter and a prismatic effect not to exceed $\frac{1}{8}$ th diopter shall be allowed.

(b) Said sunglasses have been tested and approved, unless in fact they have been tested and approved by an independent and disinterested optometric authority.

(c) Said sunglasses will completely protect the eyes of the wearer from the harmful rays of the sun.

(d) The sunglasses offered for sale or sold by respondents are guaranteed, unless the terms, conditions and extent to which such guarantee applies and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

2. Offering for sale or selling any product which is in whole or substantial part of foreign origin, without clearly and conspicuously disclosing on such product or in immediate connection therewith, and,

ADVANCE JUNIOR, INC., ET AL.

1127

1123

Complaint

if such product is enclosed in a package or container, on the package or container, in such a manner that it will not be hidden or readily