

other action against the respondent at any time in the future as may be warranted by the then existing circumstances.

Commissioner MacIntyre not participating.

IN THE MATTER OF

TOM C. LANGE FORMERLY DOING BUSINESS AS TOM
LANGE COMPANY AND NOW PRESIDENT OF TOM
LANGE COMPANY, INC.

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

Docket C-189. Complaint, July 23, 1962—Decision, July 23, 1962

Consent order requiring a St. Louis broker of citrus fruit and produce to cease accepting illegal brokerage on substantial purchases of said food products for his own account for resale, such as a discount usually at the rate of 10 cents per 1% bushel box of citrus fruit from Florida packers.

COMPLAINT

The Federal Trade Commission, having reason to believe that Tom C. Lange, an individual, who formerly did business as Tom Lange Company and who is now the president and majority stockholder of Tom Lange Company, Inc., a corporation, successor and assign of the business formerly operated by Tom C. Lange, an individual, has violated 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 Tom C. Lange is an individual who formerly did business as Tom Lange Company under and by virtue of the laws of the State of Missouri, with his office and principal place of business located in St. Louis, Missouri, with mailing address as 1 Produce Row, St. Louis 6, Mo.

PAR. 2. Respondent Tom C. Lange has been engaged primarily in the brokerage business, representing a number of packer-principals located in various sections of the United States, in connection with the sale and distribution of citrus fruit and produce, hereinafter sometimes referred to as food products. In particular, respondent has represented a number of citrus fruit packers located in the States of Florida and California in the sale and distribution of citrus fruit, for which respondent has been paid for his services in connection therewith a brokerage or commission, usually at the rate of 10 cents per $1\frac{3}{5}$ bushel box, or equivalent. A substantial part of respondent's business has been in acting in the capacity of a buying broker, purchasing citrus fruit and produce for his own account for resale.

PAR. 3. As of December 31, 1961, said respondent Tom C. Lange ceased doing business as an individual and on January 2, 1962, a corporation, Tom Lange Company, Inc., was formed under the laws of the State of Missouri with said Tom C. Lange as president and majority stockholder. Said corporation, Tom Lange Company, Inc., is the successor and assign of the business formerly operated by Tom C. Lange, an individual, and its office and principal place of business is located in St. Louis, Missouri, and its mailing address is 1 Produce Row, St. Louis 6, Missouri. Said respondent Tom C. Lange formulates, directs and controls the acts and practices of said Tom Lange Company, Inc.

PAR. 4. In the course and conduct of his business for the past several years, in representing packer-principals, as well as when purchasing for his own account, respondent has, directly or indirectly, caused such citrus fruit or food products, when sold or purchased, to be shipped and transported from various packers' packing plants or places of business located in the States of Florida and California, to respondent's customers located in many states other than the States of Florida and California. Thus, for the past several years, respondent has been engaged in a continuous course of trade in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended.

PAR. 5. In the course and conduct of his business in commerce, as aforesaid, during the past several years, but more particularly since April 1, 1960, respondent has made numerous and substantial purchases of food products for his own account for resale from various

packers or sellers on which purchases he has received and accepted, directly or indirectly, something of value as a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith. For example, respondent has made substantial purchases of citrus fruit for his own account from a number of packers located in the States of Florida and California, which fruit was shipped and transported to customers located outside the States of Florida and California, and on said purchases respondent has received from the packer a brokerage or commission, or a discount in lieu thereof, usually at the rate of 10 cents per 1 $\frac{3}{4}$ bushel box, or equivalent. In other instances respondent received a lower price from the packer, which reflected said brokerage or commission.

PAR. 6. The acts and practices of respondent in receiving and accepting a brokerage or commission, or an allowance or discount in lieu thereof, on his own purchases, as herein alleged and described, have been 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 Tom C. Lange was an individual doing business as Tom Lange Company under and by virtue of the laws of the State of Missouri, with his office and principal place of business located in St. Louis, Mo., with mailing address as 1 Produce Row, St. Louis 6, Mo. Respondent now is President and majority stockholder of Tom Lange Company, Inc., doing business under and by virtue of the

Complaint

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laws of the State of Missouri, with his principal place of business located in St. Louis, Mo., with mailing address as 1 Produce Row, St. Louis 6, Mo.

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

ORDER

It is ordered, That respondent Tom C. Lange, and respondent's agents, representatives, employees, successors and assigns, 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 respondent's own account, or where respondent is the agent, representative, or other intermediary acting for or in behalf, or is subject to the direct or indirect control, of any buyer.

It is further ordered, That respondent Tom C. Lange, and his successor and assign, Tom Lange Company, Inc., 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 said order.

IN THE MATTER OF

JAKE FELDMAN ET AL. TRADING AS DIXIE ARMY
SURPLUS STORE