

Complaint

IN THE MATTER OF

SUPERIOR INSULATING TAPE COMPANY ET AL.

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

Docket C-206. Complaint, Aug. 15, 1962—Decision, Aug. 15, 1962

Consent order requiring St. Louis manufacturers to cease representing falsely that their rolls of "SI" brand plastic tape—sold in rolls ranging from $\frac{1}{2}$ inch wide and 10 feet long to $\frac{3}{4}$ inch wide and 60 feet long—contained more tape than was the fact through mounting the tape on a cardboard spool part of which was of the same color and appearance as the tape while the center was of a contrasting color, usually orange.

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 Superior Insulating Tape Company, a corporation, and J. A. Schweig and Julius S. Schweich, individually and as officers 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 Superior Insulating Tape Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 3100 Lambdin Avenue, in the city of St. Louis, State of Missouri.

Respondents J. A. Schweig and Julius S. Schweich are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their business 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 manufacturing, advertising, offering for sale, sale and distribution of various kinds of tape to distributors and wholesalers who sell 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 Missouri to purchasers thereof located in various other states of the

United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. One type of tape offered for sale and sold by respondents, as aforesaid, is their SI brand plastic tape. Said tape is sold in rolls of various sizes ranging from $\frac{1}{2}$ inch wide and 10 feet long to $\frac{3}{4}$ inch wide and 60 feet long.

The aforesaid tape is mounted on or rolled around a cardboard core or spool part of which is the same color and of the same appearance as the tape wound around it while the balance or center of the core or spool is of a contrasting color, usually orange.

PAR. 5. By means of the aforesaid rolls of tape; in the manner constructed and colored as aforesaid, the respondents have represented, and now represent, contrary to the facts, that their said rolls of tape contain more tape than they actually contain.

PAR. 6. By the aforesaid practices, respondents place in the hands of others a means and instrumentality by and through which they may mislead the public as to the amount of tape contained in respondents' said product.

PAR. 7. In the conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of various types of tape of the same general kind and nature as that sold by respondents.

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive 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 the aforesaid product contains more tape per roll than is the fact and into the purchase of substantial quantities of respondents' said tape by reason of said erroneous and mistaken belief.

PAR. 9. 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 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 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, Superior Insulating Tape Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri with its office and principal place of business located at 3100 Lambdin Avenue, in the city of St. Louis, State of Missouri.

Respondents J. A. Schweig and Julius S. Schweich are officers of said corporation, and their 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, Superior Insulating Tape Company, a corporation, and its officers, and J. A. Schweig and Julius S. Schweich, 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 offering for sale, or sale, of SI brand plastic tape, or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, by means of packaging, or in any other manner, that its products are larger in size, such as length, width, area, weight, thickness, or quantity, or in any other manner, than is the actual fact.

2. Engaging in any practice or plan which will provide retailers of their merchandise with the means of misrepresenting its merchandise as set forth in Paragraph 1 above.

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

J. PARKER LAMPERT DOING BUSINESS AS MISSION
FRUIT & VEGETABLE COMPANY

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

Docket C-207. Complaint, Aug. 21, 1962—Decision, Aug. 21, 1962

Consent order requiring Mission, Tex., packers of citrus fruit to cease violating Section 2(c) of the Clayton Act by paying a commission or discount to brokers and other direct buyers purchasing for their own accounts 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 J. Parker Lampert is an individual doing business as Mission Fruit & Vegetable Company with his office and principal place of business located at Mission, Texas, with mailing address as Post Office Box 793, Mission, Texas.

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 his products directly, and in many instances through brokers, to buyers located in various sections of the United States. When brokers are utilized in making sales, respondent pays said brokers for their services a brokerage or commission, usually at the rate of 5 cents per carton or 10 cents per 1 $\frac{3}{5}$ bushel box or 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 his business over the past several years, respondent has sold and distributed, and is now selling and

distributing, 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 his place of business or packing plant in the State of Texas, or from other places within said state, 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 said respondent and the respective buyers thereof.

PAR. 4. In the course and conduct of his business, as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of his brokers and 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 in paying, granting or allowing to brokers and direct buyers a commission, brokerage or other compensation, 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 Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Restraint of Trade proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of subsection (c) of Section 2 of the Clayton Act, as amended; 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 aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondent that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondent has violated subsection (c) of Section 2 of the Clayton Act, as amended, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent J. Parker Lampert is an individual doing business as Mission Fruit & Vegetable Company, with his office and principal place of business located at Mission, Texas, with mailing address as Post Office Box 793, Mission, Texas.