

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
WAYNE L. BOWMAN CO., INC.

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

Docket C-272. Complaint, Nov. 29, 1962—Decision, Nov. 29, 1962

Consent order requiring a Chattanooga, Tenn., wholesaler of citrus fruit and produce to cease violating Sec. 2(c) of the Clayton Act by receiving allowances in lieu of brokerage on purchases of citrus fruit from Florida packers for its own account for resale, usually at the rate of 10 cents per 1% bushel box or a lower price reflecting said commission.

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 Wayne L. Bowman Co., Inc., is a corporation organized, existing and doing business under and by virtue

of the laws of the State of Tennessee, with its office and principal place of business located at 1204 Chestnut Street, Chattanooga, Tenn.

PAR. 2. Respondent is now and for the past several years has been engaged in business primarily as a wholesale distributor, buying, selling and distributing citrus fruit and produce, hereinafter sometimes referred to as food products. Respondent purchases such food products from a large number of suppliers located in many sections of the United States. The annual volume of business done by respondent in the purchase and sale of food products is substantial.

PAR. 3. In the course and conduct of its business for the past several years, respondent has purchased and distributed, and is now purchasing and distributing, food products, in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, from suppliers or sellers located in several States of the United States other than the State of Tennessee, in which respondent is located. Respondent transports or causes such products, when purchased, to be transported from the places of business or packing plants of its suppliers located in various other States of the United States to respondent who is located in the State of Tennessee, or to respondent's customers located in said state, or elsewhere. Thus, there has been at all times mentioned herein a continuous course of trade in commerce in the purchase of said food products across state lines between respondent and its respective suppliers of such food products.

PAR. 4. In the course and conduct of its business for the past several years, but more particularly since January 1, 1960, respondent has been and is now making substantial purchases of food products for its own account for resale from some of its suppliers, and on a large number of these purchases respondent has received and accepted, and is now receiving and accepting, from said suppliers a commission, brokerage, or other compensation or an allowance or discount in lieu thereof, in connection therewith. For example, respondent makes substantial purchases of citrus fruit from a number of packers or suppliers located in the State of Florida and receives on said purchases a brokerage or commission, or a discount in lieu thereof, usually at the rate of ten (10) cents per $1\frac{3}{5}$ bushel box, or equivalent. In many instances respondent receives a lower price from the suppliers which reflects said commission or brokerage.

PAR. 5. The acts and practices of respondent in receiving and accepting a brokerage or a commission, or an allowance or discount in lieu thereof, on its 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

61 F.T.C.

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 Wayne L. Bowman Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Tennessee, with its office and principal place of business located at 1204 Chestnut Street, Chattanooga, Tenn.

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

ORDER

It is ordered, That respondent Wayne L. Bowman Co., Inc., a corporation, and its officers, agents, representatives and employees, 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 the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission

