

have complied with the order to cease and desist.

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IN THE MATTER OF  
ROY WEIR ET AL. DOING BUSINESS AS VALLEY  
FRUIT & VEGETABLE CO.

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

*Docket C-279. Complaint, Dec. 18, 1962—Decision, Dec. 18, 1962*

Consent order requiring packers of citrus fruit and produce in Pharr, Tex., to cease violating Sec. 2(c) of the Clayton Act by paying commissions or brokerage to a large number of direct buyers purchasing for their own account for resale.

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.

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Title 15, Sec. 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondents Roy Weir, Rudolph Ogden, Dan Seitz and Richard Eubank are individuals and copartners doing business as Valley Fruit & Vegetable Co. with their office and principal place of business located at Pharr, Texas, with mailing address at P.O. Box 770, Pharr, Texas.

PAR. 2. Respondents, individually and as copartners doing business as Valley Fruit & Vegetable Co., are now, and for the past several years have been, engaged in the business of packing, selling and distributing citrus fruit and produce, hereinafter sometimes referred to as food products. Respondents sell and distribute their food 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, respondents pay said brokers for their services a brokerage or commission, at a varying rate, depending on the size and value of the food products involved. Respondents' annual volume of business in the sale and distribution of food products is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondents have sold and distributed and are now selling and distributing food products, 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 respondents are located. Respondents transport, or cause such food products, when sold, to be transported from their 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 food products across state lines between said respondents and the respective buyers thereof.

PAR. 4. In the course and conduct of their business, as aforesaid, respondents have been and are now making substantial sales of food products to some, but not all, of their brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondents paid, granted or allowed, and are 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 respondents in paying, granting, or allowing to brokers and direct buyers a commission, brokerage or

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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 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. Respondents, Roy Weir, Rudolph Ogden, Dan Seitz and Richard Eubank are individuals and copartners doing business as Valley Fruit & Vegetable Co. with their office and principal place of business located at Pharr, Texas, with mailing address at P.O. Box 770, Pharr, Texas.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents.

## ORDER

*It is ordered*, That the respondents Roy Weir, Rudolph Ogden, Dan Seitz, and Richard Eubank, individually and as copartners doing business as Valley Fruit & Vegetable Co., and their agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or produce, 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

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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 produce to such buyer for his own account.