

Complaint

62 F.T.C.

IN THE MATTER OF

DAN A. LA PANTA COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2 (C)
OF THE CLAYTON ACT*Docket C-493. Complaint, Apr. 22, 1963—Decision, Apr. 22, 1963*

Consent order requiring Duluth, Minn., brokers and wholesale distributors of citrus fruit and produce to cease violating Sec. 2(c) of the Clayton Act by accepting discounts on purchases of citrus fruit for their own accounts for resale from Florida packers.

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

PARAGRAPH 1. Respondent Dan A. La Panta Company, Inc., is a corporation organized on or about August 8, 1947, existing and doing business under and by virtue of the laws of the State of Minnesota, with its offices and principal place of business located at 1201½ West Michigan Street, Duluth, Minnesota.

Respondent Dan A. La Panta is an individual and is president of the corporate respondent, and owns substantially all of its capital stock. As president and substantial owner, he formulates, directs and controls the acts, practices, and policies of the said corporate respondent, including the acts and practices hereinafter mentioned. Said corporate respondent and individual respondent are hereinafter jointly referred to as respondents.

PAR. 2. Respondents are now, and for the past several years have been, engaged in business as a broker, representing a number of principals located in various States throughout the United States, who sell and distribute citrus fruit and produce. Respondents also are now, and for the past several years have been, engaged in business as a wholesale distributor, buying, selling, and distributing citrus fruit and produce, all of which are hereinafter sometimes referred to as food products. Respondents purchase their food products from a large number of suppliers located in many sections of the United States. The annual volume of business done by respondents in the brokerage business and in the purchase and sale of food products is substantial.

PAR. 3. In the course and conduct of their business for the past several years, respondents have purchased and distributed, and are 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 Minnesota, in which respondents are located. Respondents transport or cause such products, when purchased, to be transported from the place of business or packing plants of their suppliers located in various other States of the United States to respondents who are located in the State of Minnesota, or to respondents' 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 respondents and their respective suppliers of such food products.

PAR. 4. In the course and conduct of their business for the past several years, respondents have been, and are now making substantial purchases of food products for their own account for resale from some, but not all, of their suppliers, and on some of these purchases, respondents have received and accepted, and are now receiving and accepting, from said suppliers a commission, brokerage, or other compensation or allowance or discount in lieu thereof in connection therewith. For example, respondents make substantial purchases of citrus fruit from various packers or suppliers located in the State of Florida, and receive on said purchases a brokerage or commission, or a discount in lieu thereof, usually at the rate of 10 cents per $1\frac{3}{4}$ bushel box, and 5 cents per $\frac{4}{5}$ bushel box. In some instances respondents receive a lower price from the supplier which reflects said commission or brokerage.

PAR. 5. The acts and practices of respondents 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

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents 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 respondents with

violation of subsection (c) of Section 2 of the Clayton Act, as amended; 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 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 respondents 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 respondents have 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 Dan A. La Panta Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its office and principal place of business located at 1201½ West Michigan Street, Duluth, Minnesota. Respondent Dan A. La Panta is an officer of said corporation.

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

ORDER

It is ordered, That respondents Dan A. La Panta Company, Inc., a corporation, and its officers, and Dan A. La Panta individually and as an officer of Dan A. La Panta Company, Inc., and respondents' 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 respondents' own account or where respondents are the agents, representatives, or other intermediaries acting for or in behalf, or are subject to the direct or indirect control, of any buyer.

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.

Complaint

IN THE MATTER OF

VAN-R, INC., ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE
COMMISSION ACT*Docket 8552. Complaint, Jan. 3, 1963—Decision, Apr. 24, 1963*

Order entered on respondents' default requiring Chicago sellers of "Rinse-Away" garbage disposal units to distributors for resale or to the public directly, to cease making various misrepresentations—by statements of sales representatives and by means of sales aids, brochures, and other literature employed by them—concerning the capacity, comparative merits, price and terms of sale of the product, opportunities for dealers, scope of the business, services available, etc., as in the order below in detail set forth.

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 Van-R, Inc., a corporation, and Vanar, Inc., a corporation, and Allen Terson, individually and as an officer of said corporations, hereinafter referred to as the 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 Van-R, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business formerly located at 5435 West Diversey Avenue, Chicago, Illinois.

Respondent Vanar, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its principal office and place of business formerly located at 410 West Creighton Avenue, Fort Wayne, Indiana.

Respondent Allen Terson is an officer of the corporate respondents Van-R, Inc., and Vanar, Inc. He formulates, directs and controls the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. His address is 2111 West Granville Avenue, Chicago, Illinois.

PAR. 2. For some time last past the respondents have been engaged in the advertising, offering for sale, sale and distribution of "Rinse-Away" garbage disposal units to distributors for resale to the public, or to the public directly.

PAR. 3. In the course and conduct of their business the respondents