

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
THOMASVILLE CHAIR COMPANY

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

Docket 7273. Complaint, Oct. 7, 1958—Decision, Oct. 22, 1963

Order dismissing cease and desist order of March 15, 1961, 58 F.T.C. 441, after remand by Court of Appeals, Fifth Circuit, 306 F. 2d 541, 7 S.&D. 515, complaint charging a manufacturer of household furniture with discriminating in price in violation of Sec. 2(c) of the Clayton Act.

ORDER DISMISSING COMPLAINT

The United States Court of Appeals for the Fifth Circuit having, on August 14, 1962, entered its judgment setting aside the Commis-

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Complaint

sion's order to cease and desist and remanding the matter to the Commission for further proceedings not inconsistent with its opinion of the same date, and the Commission after full consideration having determined that the complaint should be dismissed for the reasons stated in an accompanying memorandum;

It is ordered, That the Commission's complaint be, and it hereby is, dismissed.

MEMORANDUM ACCOMPANYING FINAL ORDER

By the Commission:

This matter is before the Commission upon remand from the United States Court of Appeals for the Fifth Circuit. We read the Court of Appeals' decision as holding that the Commission, in a case in which it is alleged that a seller has violated Section 2(c) of the Clayton Act by passing on a reduction in brokerage to favored buyers in the form of a discriminatory price reduction, may not rely solely on the fact that the seller has paid less brokerage on the sales at the lower price, but must establish a causal relationship between the reduced brokerage and the reduced sales price. The Commission does not, however, acquiesce in the opinion of the Court of Appeals as such, which contains dicta with which the Commission does not necessarily agree. Since the Commission does not believe that the public interest would be advanced by a further proceeding to establish whether respondent has violated Section 2(c), the complaint must be dismissed.