

Docket C-787. Complaint, July 13, 1964—Decision, July 13, 1964

Consent order requiring a Carlstadt, N.J., processor of frozen fruits and vegetables and wholesaler of groceries through its various divisions and subsidiaries, with sales in the year ending Mar. 3, 1962, in excess of \$134,000,000,

Complaint

66 F.T.C.

to cease inducing and receiving payments for institutional promotions from its suppliers when it knew, or should have known, that such payments were not offered or made available on proportionally equal terms to its competitors purchasing from the same suppliers.

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 the respondent, Seeman Brothers, Inc., has violated and is now violating the provisions of Section 5 of the Federal Trade Commission Act, (15 U.S.C., Sec. 45), and it appearing to the Commission that a proceeding by it in respect thereof would be in the interest of the public, issues its complaint charging as follows:

PARAGRAPH 1. Respondent, Seeman Brothers, Inc., hereinafter sometimes referred to as Seeman, is a corporation organized, existing and doing business under the laws of the State of New York, with its principal office and place of business located at 600 Washington Avenue, Carlstadt, New Jersey. Respondent through its various divisions and wholly owned subsidiaries is now and for many years last past has been engaged in processing frozen fruits and vegetables and in selling groceries at wholesale to retail grocery stores. Respondent's sales are substantial, totaling more than \$134,600,000 for the fiscal year ending March 3, 1962.

PAR. 2. In the course and conduct of its business respondent has engaged in, and is presently engaged in, commerce, as "commerce" is defined in the Federal Trade Commission Act. It purchases grocery products from suppliers throughout the United States and causes such products to be transported from various States to other States for distribution and resale to retailers throughout the United States.

PAR. 3. In the course and conduct of its business, respondent has been for many years, and is now in substantial competition in the production, sale and distribution of food products, in commerce between and among the various States of the United States, with other corporations, persons, firms and partnerships.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has induced and received from its seller-suppliers so engaged in commerce, payments of value which accrued to respondent's benefit, for services or facilities furnished by or through respondent

in connection with the handling, sale and offering for sale of the said products of such seller suppliers. Respondent knows or had reason to know, that such payments of value were not offered or made available on proportionally equal terms to respondent's competitors also purchasing from such same seller-suppliers and that such same seller-suppliers were in violation of subsection (d) of Section 2 of the Clayton Act, as amended.

PAR. 5. In the course and conduct of its business in commerce, respondent on June 7, 1961, commemorated its seventy-fifth year in business by holding a dinner dance which was attended by 1,432 persons. Each of respondent's seller-suppliers was sent an invitation to attend the dinner dance, together with from one to ten tickets which cost \$100 apiece. Over 400 suppliers purchased tickets: thirty-six purchased \$400 worth, ten purchased \$600 worth, and twenty-two purchased \$1,000 worth. The receipts from the sale of tickets totaled \$105,800.

PAR. 6. The \$105,800 gross receipts from the sale of tickets to the respondent's seller-suppliers benefited respondent in the following manner:

1. \$16,930.82 of the gross receipts was expended on the publication of 12,000 copies of a booklet entitled "TOWARD NEW HORIZONS—The Story of Seeman Brothers on the Move" and 5,000 copies of a booklet entitled "THE FORCE BEHIND THE PROGRESS" in both of which respondent's growth is depicted together with a lengthy exposition praising respondent's food growing and processing techniques, and respondent's facilities and personnel.

2. \$6,281.40 of the gross receipts was expended upon public relations, publicity and promotional services.

3. \$32,335.90 of the gross receipts was expended on the dinner, the dance, and the entertainment and on providing these without charge to several hundred employees and other guests of the respondent.

4. The remainder, or \$36,280.20, became part of respondent's income for the fiscal year ending March 3, 1962.

PAR. 7. The acts and practices, as alleged above, are all to the prejudice of the public and constitute unfair methods of competition and unfair acts and practices within the intent and meaning of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of the Federal Trade Commission Act 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 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 Seeman Brothers, Inc., is a corporation organized, existing and doing business under the laws of the State of New York, with its principal office and place of business located at 600 Washington Avenue, Carlstadt, New Jersey.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered. That respondent, Seeman Brothers, Inc., a corporation, its officers, employees, agents and representatives, directly or through any corporate or other device, in or in connection with the purchase of food products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Receiving, or soliciting and receiving, payment from any vendor for institutional promotions when respondent knows, or should know, that such payment is not affirmatively offered or otherwise made available by such vendor on proportionally equal terms to all of its other customers competing with respondent in the sale and distribution of the vendor's products.

2. The term "institutional promotions" as used in this order means promotions primarily designed for, or primarily resulting in, the enhancement of the reputation, name, good will or prestige of the respondent.

It is further ordered. That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Complaint

IN THE MATTER OF

HYMAN MAURER ET AL. TRADING AS H. MAURER & SON

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS

Docket C-785. Complaint, July 13, 1964—Decision, July 13, 1964

Consent order requiring manufacturing furriers in New York City to cease violating the Fur Products Labeling Act by failing, in labeling and invoicing, to show the true animal name of fur; failing in labeling and advertising, to disclose when fur was artificially colored; labeling American Sable as "Sable" and using the word "blended" improperly on labels; failing to show the country of origin of imported furs, using the term "Broadtail" improperly and showing artificially colored furs as "natural" on invoices; and failing in other respects to comply with the requirements of the Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that Hyman Maurer and Maurice Maurer, individually and as copartners trading as H. Maurer & Son, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling 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:

Respondents Hyman Maurer and Maurice Maurer are individuals and copartners trading as H. Maurer & Son.

Respondents are manufacturers of fur products with their office and principal place of business located at 224 West 30th Street, New York, New York.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been and are now engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and have manufactured for sale, sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of furs which have been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.