

Docket 6495. Complaint, Jan. 17, 1956—Decision Mar. 5, 1965

Order modifying by banning other acquisitions for a period of ten years without the prior approval of the Federal Trade Commission, pursuant to a decision of the Court of Appeals, Fifth Circuit, dated February 24, 1965,

7 S. & D. 1148, a divestiture order dated April 30, 1962, 60 F.T.C. 944, 1099, which required a major dairy company to sell certain of its acquired companies.

MODIFIED ORDER

Foremost Dairies, Inc., having filed in the United States Court of Appeals for the Fifth Circuit on July 13, 1962, a petition to review and set aside the order of divestiture issued herein on April 30, 1962; and the Commission and Foremost Dairies, Inc., having subsequently agreed upon a plan of divestiture and upon the provisions of a final order modifying the order entered by the Commission on April 30, 1962; and the Court, on February 24, 1965, having issued its final order affirming and enforcing said order as submitted by the Commission and Foremost Dairies, Inc.;

Now, therefore, it is hereby ordered. That the order of April 30, 1962 [60 F.T.C. 944], be, and it hereby is, modified in accordance with the final order of the Court to read as follows:

It is ordered. That respondent, Foremost Dairies, Inc., before December 31, 1965, shall divest itself absolutely, in good faith, of all of the assets and properties incident to the operation of the facilities referred to in Schedule 1 hereto, together with all plants, machinery, buildings, improvements, equipment and other property that have been or may be added thereto or placed on such premises by respondent, such divestiture to be effected subject to prior approval of the Commission by sales of assets to third persons, firms or corporations as may be necessary to restore the properties as competitive entities, all as hereinafter provided.

It is further ordered. That such divestiture shall be effected subject to the following:

1. Upon the completion of such transfer of assets to the third person, firm or corporation (herein called the "transferee"), respondent, its officers, directors, agents, representatives or employees shall not exercise any control or supervision over the policies, control, management, operation or acts of transferee, or any successor in interest to transferee: *Provided*, That respondent may license the use of any of its trademarks in the territory of the transferee during a period of twelve (12) years from the date this order is issued only after it has obtained prior approval by the Commission of each license.

Order

67 F.T.C.

2. By these divestitures, none of the stocks, assets, properties, rights or privileges, tangible or intangible, shall be sold or transferred, directly or indirectly, to anyone who is at the time of the divestiture an officer, director, employee or agent of, or under the control or direction of, respondent or any of respondent's divisions, subsidiaries or affiliated corporations, or who owns or controls, directly or indirectly, more than one (1) percent of the outstanding shares of common stock of respondent, nor to anyone who is not approved as a purchaser by the Federal Trade Commission in advance.

It is further ordered, That, as used in this order, the term "anyone" or "person" shall include natural persons who are members of the immediate family by reason of blood relationship, marriage, adoption, or living in the same household.

It is further ordered, That for a period of ten (10) years after the date of service of this Order upon respondent, respondent and its successor in interest shall cease and desist from acquiring, directly or indirectly, through subsidiaries or otherwise, the whole or any part of the stock, share capital or assets (other than products sold in the course of business) of any concern, corporate or noncorporate, engaged principally or as one of its major commodity lines at the time of such acquisition in any State of the United States in the business of manufacturing, processing or selling at wholesale or on retail milk routes (a) fluid milk, or (b) ice cream, ice milk, Mellorine, sherbet or water ices, without the prior approval of the Federal Trade Commission.

It is further ordered, That respondent shall submit to the Commission on the first day of each calendar month a report in writing setting forth its efforts and progress in carrying out the divestiture requirements of this order until all the assets have been divested with the approval of the Commission; and respondent shall submit to the Commission on the first day of each calendar year a report in writing setting forth its compliance with the cease and desist provisions of this order.

SCHEDULE I

SOUTHEASTERN REGION

BRISTOL, VA. DISTRICT

Processing plants

Bristol—Milk
 Bristol—Ice Cream
 Kingsport—Milk
 Spartanburg—Ice Cream
 Welch—Milk
 Charlotte—Milk

Sales Branches

Appalachia
 Ashland
 Bluefield
 Bristol
 Charlotte
 Columbia, S.C.
 Johnson City
 Kingsport
 Richlands
 Spartanburg
 Welch
 Williamson

JACKSONVILLE, FLA. DISTRICT

Processing plants

Daytona—Milk
 Savannah—Milk
 St. Petersburg—Milk
 Jacksonville—Milk
 Jacksonville—Ice Cream

Sales Branches

Daytona
 Gainesville
 Jacksonville
 Orlando
 Savannah
 St. Augustine
 St. Petersburg
 Tallahassee
 Tampa

Valdosta

San Juan

MIAMI, FLA. DISTRICT

Processing Plants

Miami—Milk
 Miami—Ice Cream

Sales Branches

Miami
 Ft. Lauderdale-West Palm
 Beach

MONTGOMERY, ALA. DISTRICT

Processing Plants

Atlanta—Milk
 Birmingham—Milk
 Montgomery—Milk
 Sylacauga—Ice Cream

Sales Branches

Atlanta
 Birmingham
 Columbus, Ga.
 Fayetteville
 Montgomery
 Huntsville
 Pensacola
 Sylacauga
 Tuscumbia

COLUMBIA, TENN. DISTRICT

Processing Plants

Columbia

FLORIDA JUICE

Processing Plant

Miami, Fla.

Sales Branch

Miami, Fla.

Order

67 F.T.C.

PHILADELPHIA DAIRY

PHILADELPHIA, PA. MILK DISTRICT

*Sales Branches**Processing Plants*

Philadelphia—Milk
Ardmore—Milk

Sales Branches

Allentown
Ardmore
Darby
Blenheim, N.J.
Philadelphia
Paoli
Somerton

Scranton
Wilkes-Barre
Dushore
Portville, N.Y.
Sayre
Williamsport

DISTRICT III (NORTHERN NEW JERSEY: NEW YORK—
ICE CREAM)

Sales Branches

Asbury Park
Newark
Monticello

DISTRICT I (PHILADELPHIA—
ICE CREAM)

Processing Plants

Philadelphia—Ice Cream

Sales Branches

Allentown
Atlantic City
Harrisburg
Laurel
Philadelphia
Pottstown

RICHMOND, VA. DISTRICT

Processing Plants

Richmond—Milk
Richmond—Ice Cream

Sales Branches

Richmond
Waynesboro

DISTRICT II (NORTHEAST, PA.—
ICE CREAM)

Processing Plants

Wilkes-Barre—Ice Cream
Dushore—Ice Cream

SCRANTON, PA. DISTRICT

Processing Plants

Scranton—Milk

Sales Branches

Scranton
Wilkes-Barre

CRESCENT DAIRY

SIoux FALLS, S. DAK. DISTRICT

*Sales Branches**Processing Plants*

Sioux Falls—Milk

Hawarden, Iowa
Madison, S. Dak.
Sioux Falls
Worthington, Minn.

Commissioner MacIntyre not participating.

Complaint

IN THE MATTER OF

UNIVERSAL BUSINESS FORMS COMPANY ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-888. Complaint, Mar. 11, 1965—Decision, Mar. 11, 1965

Consent order requiring a Chicago, Ill., distributor of business forms to cease threatening, harassing, or otherwise coercing any manufacturer or supplier of business forms not to sell its products to respondent's competitors, or entering into any planned course of action with others to prevent suppliers from selling to competitors of respondent.

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 party respondents named in the caption hereof, and hereinafter more particularly designated and described, have violated and are now violating Section 5 of the Federal Trade Commission Act (U.S.C., Title 15, Section 45), and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, the Commission hereby issues its complaint, stating its charges as follows:

PARAGRAPH 1. Respondent Universal Business Forms Company, hereinafter called Universal, 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 located at 222 West Adams Street, Chicago, Illinois. Universal is a business in which salesmen solicit orders for business forms products from customers located in Wisconsin, Indiana and Illinois, among other States, and place such orders with business forms printing manufacturers located throughout the country. The salesmen then report such orders to Universal. Universal is subsequently billed for such orders by the business forms printing manufacturer. Pursuant to said orders, shipments are made by the business forms printing manufacturers to the aforesaid customers of Universal, who are billed by Universal. Universal achieved annual gross sales of approximately \$500,000, in the year 1962.

PAR. 2. Verl G. Elya is president of Universal. He formulates, directs, controls, and participates in the policies and practices of Universal.