

IN THE MATTER OF
NANCY GREER, INC.

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

*Docket 8630. Complaint, June 30, 1964—Decision, Apr. 9, 1965*¹

Consent order requiring a New York City manufacturer of wearing apparel products, to cease making discriminatory payments for advertising, promotional services, and other facilities and services to certain favored customers as compensation for promoting the sale of its wearing apparel products, by paying promotional allowances of \$4,499 during 1961 and \$3,951 during 1962 to a favored customer in Philadelphia, while not making

¹ This order was made effective on, Aug. 9, 1965, see *Abby Kent Co., Inc., et al.*, Docket No. C-328, et al., Aug. 9, 1965, 68 F.T.C. 393.

Complaint

67 F.T.C.

such payments available on proportionally equal terms to all customers competing with favored customer in the resale of such products of respondent, and postponing effective date of the order until further order of the Commission.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly described, has violated and is now violating the provisions of subsection (d) 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, Nancy Greer, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 1400 Broadway, New York 18, New York.

PAR. 2. Respondent is now and has been engaged in the manufacture, sale and distribution of women's dresses. Respondent sells its products to a large number of retail specialty and department stores located throughout the United States. Respondent's sales of its products are substantial, having exceeded \$4,900,000 for the fiscal year ending August 31, 1960.

PAR. 3. In the course and conduct of its business, respondent has engaged and is now engaging in commerce, as "commerce" is defined in the Clayton Act, as amended, in that respondent sells and causes its products to be transported from its principal place of business located in the State of New York to customers located in other States of the United States and in the District of Columbia. There has been at all times mentioned herein a continuous course of trade in commerce in said products across State lines between said respondent and its customers.

PAR. 4. In the course and conduct of its business in commerce, respondent paid or contracted for the payment of something of value to or for the benefit of some of its customers as compensation or in consideration for services or facilities furnished by or through such customers in connection with their offering for sale or sale of products sold to them by respondent, and such payments were not made available on proportionally equal terms to all other customers competing in the sale and distribution of respondent's products.

PAR. 5. Included among the payments alleged in Paragraph Four were credits, or sums of money, paid either directly or indirectly by way of discounts, allowances, rebates or deductions, as compensation or in consideration for promotional services, or facilities furnished by

customers in connection with the offering for sale, or sale of respondent's products, including advertising in various forms, such as newspapers, sometimes hereinafter referred to as promotional allowances.

For example, during the years 1961 and 1962, respondent made payments and allowances to various customers in various trading areas, including Boston, Massachusetts and Philadelphia, Pennsylvania, for advertising its products in newspapers. During the years 1961 and 1962, respondent paid the Jordan Marsh Company of Boston, Massachusetts, promotional allowances in the amounts of \$1,575.64 and \$2,753.30, respectively. In Philadelphia, Pennsylvania, during 1961, respondent paid promotional allowances to Bonwit Teller and John Wanamaker in the amounts of \$400 and \$4,499, respectively. During 1962, the respondent paid \$1,700 and \$3,951 to Bonwit Teller and John Wanamaker, respectively.

Respondent did not make, or offer to make, or otherwise make available such allowances on proportionally equal, or any, terms to all other customers in Boston and Philadelphia competing with those who received such allowances.

PAR. 6. The acts and practices of respondent as alleged above are in violation of subsection (d) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act (U.S.C., Title 15, Section 13).

DECISION AND ORDER

The Commission issued its complaint in this proceeding on June 30, 1964, charging respondent with violations of Section 2(d) of the Clayton Act, as amended. The matter is presently before the Commission upon certification by the hearing examiner of an agreement containing a consent order to cease and desist duly executed by respondent. Complaint counsel have interposed no objection to acceptance of the agreement containing the consent order to cease and desist.

At the present time, over two hundred members of this industry have executed agreements containing consent orders which are identical in all respects with the purposed consent order tendered herein. The Commission has accepted the consent orders from these other members of the industry and has postponed the effective dates of said orders until further order.

The order agreed to by the respondent conforms in all respects to the order which the Commission included in the complaint as the form of order it had reason to believe should issue after a formal hearing upon the charges set forth in the complaint. Thus, acceptance of the proffered agreement would obviate the expenditure of sub-

stantial time and money in further hearings, and would place the respondent in the same position as other members of the industry charged with similar violations. In these circumstances, the Commission concludes that it is in the public interest to waive the provisions of § 2.4(d) of the Rules of Practice.

Accordingly, the agreement is hereby accepted, the following jurisdictional findings are made, and the following order is entered:

1. Respondent Nancy Greer, Inc., is a corporation organized and existing under the laws of the State of New York, with its office and principal place of business located at 1400 Broadway, New York, New York.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of respondent, and the proceeding is in the public interest.

ORDER

It is ordered. That respondent Nancy Greer, Inc., a corporation, its officers, directors, agents, representatives and employees, directly or through any corporate or other device, in the course of its business in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from:

Paying or contracting for the payment of anything of value to, or for the benefit of, any customer of the respondent as compensation or in consideration for advertising or promotional services, or any other service or facility, furnished by or through such customer in connection with the handling, sale or offering for sale of wearing apparel products manufactured, sold or offered for sale by respondent, unless such payment or consideration is made available on proportionally equal terms to all other customers competing with such favored customer in the distribution or resale of such products.

It is further ordered. That the effective date of the order to cease and desist be, and it hereby is, postponed until further order of the Commission.

IN THE MATTER OF
CYN LES SPORTSWEAR, INC., ET AL.

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

Docket C-891. Complaint, Apr. 9, 1965—Decision, Apr. 9, 1965

Consent order requiring a New York City importer of wool products to cease violating the Wool Products Labeling Act by misbranding the fiber content