

IN THE MATTER OF
THE ATLANTIC COMPANY ET AL.

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

Docket 8677. Complaint, Jan. 11, 1966—Decision, Mar. 31, 1966

Consent order requiring three operators of retail grocery stores in the Chattanooga, Tenn., area, to cease coercing or intimidating retail outlets to refuse to deal with members of a beer wholesalers organization.

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 respondents named in the caption hereof 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 as follows:

PARAGRAPH 1. Respondent The Atlantic Company, hereinafter sometimes referred to as Atlantic, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with principal business offices at 106 Washington Street, Viaduct, Atlanta, Georgia. Through its E-Z Food

Shops Division, respondent operates approximately 160 retail stores in an area encompassing the States of Mississippi, Alabama, Tennessee, Florida, Georgia, North Carolina, and South Carolina. Among the items sold by these stores are grocery products, beer, magazines and lawn and garden supplies. In 1963, respondent's net sales amounted to over \$23,000,000.

Respondent Harold M. Lasater is a resident of the State of Tennessee with a business address located at 5013 Rossville Boulevard, Chattanooga, Tennessee. Respondent Lasater is engaged in the retail grocery business. Utilizing the trade style of "Willie's Supermarket," respondent Lasater owns and operates three supermarkets within the city of Chattanooga, Tennessee, and surrounding area thereof. The combined annual net sales of these stores exceed \$2,500,000.

Respondent A. Clyde Pruett is a resident of the State of Tennessee with a business address located at 5738 Ringgold Road, Chattanooga, Tennessee. Respondent Pruett is engaged in the retail grocery business. Through various corporate and other business devices, and under the trade style "Pruett's Food Town," respondent owns and operates five supermarkets in the city of Chattanooga and surrounding area thereof. The combined annual net sales of these retail outlets exceed \$1,000,000.

PAR. 2. In the course and conduct of its business, respondent Atlantic, from its corporate headquarters in Atlanta, Georgia, purchases food, beverage and other products manufactured in various States of the United States and causes said products to be shipped across State borders and sold through its retail outlets located in the States mentioned in Paragraph One. For the past several years, and at all times mentioned herein, respondent has been, and is now, engaged in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. Respondents Lasater and Pruett, individually or through various corporate and other business devices, purchase food, beverage and other products that are manufactured in various States of the United States and cause said products to be shipped across State borders to their businesses located in the State of Tennessee. For the past several years, and at all times mentioned herein, said respondents have been, and are now, engaged in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Since April of 1964, respondents Atlantic, Lasater and Pruett have been members of an unincorporated group called the

Chattanooga Beer Retailers Association. The members of this association are in competition with each other in the retail sale of beer, except insofar as such competition has been lessened and restrained by the practices alleged herein.

PAR. 5. Chattanooga Beer Wholesalers Association is an unincorporated association composed of the six largest beer distributors in Hamilton County, Tennessee. Members of this association purchase their beer from manufacturers located in various States of the United States and sell it on both the wholesale and retail level to customers in Chattanooga, Tennessee, and surrounding areas. In reference to retail sales, members of the Chattanooga Beer Wholesalers Association are in competition with the retail businesses operated by respondents herein and other members of the Chattanooga Beer Retailers Association, except insofar as such competition has been lessened and restrained by the practices alleged herein.

PAR. 6. In the course of their aforescribed business in commerce, respondents Atlantic, Lasater and Pruett, acting between and among themselves, and with other members of the Chattanooga Beer Retailers Association, during the period from April of 1964 through September of the same year, entered into an understanding, agreement, combination and conspiracy to establish, and did establish, place into effect and carry out a planned common course of action to adopt and adhere to certain practices and policies for the purpose of or with the effect of hindering, lessening, restraining and eliminating competition in the sale and distribution of beer between respondents and members of the Chattanooga Beer Wholesalers Association in Chattanooga, Tennessee and surrounding areas.

Pursuant to and in furtherance of said understanding, agreement, combination, conspiracy and planned course of action, respondents Atlantic, Lasater and Pruett, together with certain members of the Chattanooga Beer Retailers Association, concertedly caused, or attempted to cause, a reduction or complete elimination of purchases from members of the Chattanooga Beer Wholesalers Association, and attempted to induce and did induce other retailers, some not members of the Chattanooga Beer Retailers Association, to refuse dealings with members of the Chattanooga Beer Wholesalers Association.

PAR. 7. The acts and practices of the respondents, as herein alleged, have had and do have the effect of hindering, lessening, restricting, restraining and eliminating competition among the

respondents and others in the sale and distribution of beer; are all to the prejudice of the public; and constitute unfair methods of competition and unfair acts and practices in commerce within the intent and meaning of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having issued its complaint on January 11, 1966, charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with a copy of that complaint; and

The Commission having duly determined upon motion certified to the Commission that, in the circumstances presented, the public interest would be served by waiver here of the provision of Section 2.4(d) of its Rules that the consent order procedure shall not be available after issuance of complaint; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents 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 aforesaid agreement and having determined that it provides an adequate basis for appropriate disposition of this proceeding, the agreement is hereby accepted, the following jurisdictional findings are made, and the following order is entered:

1. Respondent The Atlantic Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with principal business offices at 106 Washington Street, Viaduct, Atlanta, Georgia.

Respondent Harold M. Lasater is a resident of the State of Tennessee and his address is 5013 Rossville Boulevard, Chattanooga, Tennessee.

Respondent A. Clyde Pruett is a resident of the State of Tennessee and his address is 5738 Ringgold Road, Chattanooga, Tennessee.

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

ORDER

It is ordered, That respondent The Atlantic Company, a corporation, its officers, representatives, agents, employees, successors and assigns, and respondents Harold M. Lasater and A. Clyde Pruett, individuals, their agents, representatives and employees, directly or through any corporate or other device, in connection with the purchase or sale in commerce, as "commerce" is defined in the Federal Trade Commission Act, of food, beverage and other products customarily sold through retail grocery channels, do forthwith cease and desist from entering into, cooperating in, carrying out or continuing any planned common course of action, understanding, agreement or conspiracy, between or among any two or more of said respondents or among or between any one or more of said respondents and others not parties hereto, to do or perform any of the following acts and practices:

1. Coerce or intimidate in any manner or by any means, including boycott or threat of boycott, any manufacturer, wholesaler, distributor or competitor to engage in, cease to engage in, or refrain from engaging in, any acts or practices relating to the conduct of the latter's business.
2. Refuse to purchase or threaten to refuse to purchase from any manufacturer, wholesaler or distributor.
3. Induce or attempt to induce any purchaser to refuse to deal with any manufacturer, wholesaler or distributor.

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.
