

Complaint

IN THE MATTER OF

UNITED SALES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
SECTION 2 (c) OF THE CLAYTON ACT*Docket C-1254. Complaint, Sept. 25, 1967—Decision, Sept. 25, 1967*

Consent order requiring a Kansas City, Mo., food broker to cease accepting illegal brokerage in connection with the sale of food products.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly described, have been and are now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C., Title 15, Section 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent United Sales, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas. Its office and principal place of business was located at 4235 Janesville Street, Wichita, Kansas, until January 3, 1967. The principal place of business is now located at 315 South Gladstone, Kansas City, Missouri.

Respondent Ray Mickle is an individual who is president of United Sales, Inc. His principal office and place of business is the same as that of the corporate respondent. This respondent has operated United Sales, Inc., since its incorporation in 1963, when he and one Robert L. Fellers, then President of Griff's of America, Inc., jointly formed United Sales, Inc., each owning 50% of the stock. Respondent Mickle has since acquired all of the outstanding capital stock of the corporate respondent.

PAR. 2. The parties respondent are now and for the past several years have been engaged in business primarily as brokers acting as intermediaries in the sale of food commodities and other products from suppliers to buyers operating hamburger stands in various States other than the State of Kansas. As such, the parties respondent have received commissions, brokerage or other compensations in connection with sales made to Griff's of America, Inc., franchised and company-owned hamburger stands through Rigley Distributing Co., a division of Griff's and Brice Wholesalers, Inc.

PAR. 3. In the course and conduct of their business for the past several years, the parties respondent named herein, directly or indirectly, have caused food commodities and other products,

when purchased, to be transported from the State of origin to destinations in other States. Thus, there has been at all times mentioned herein a continuous course of trade and commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, in said food commodities and other products across State lines between the purchasers and the sellers of said products.

PAR. 4. In the course and conduct of respondents' business for the past several years, the parties respondent have been collecting and receiving commissions, brokerage or other compensations paid by suppliers on sales of such products to Griff's of America, Inc., franchised and company-owned hamburger stands through Rigley Distributing Co. and Brice Wholesalers, Inc., when in fact, the parties respondent have been acting for or on behalf of a party to the transaction other than the suppliers by whom such commissions, brokerage or other compensations were granted or paid.

It is further alleged, that the parties respondent, for several years last past, have passed on approximately 90% of such commissions, brokerage or other compensations, to Griff's of America, Inc., and directly to Robert L. Fellers, or indirectly to Fellers through Rigley Distributing Co., Inc., the purchasers of such products on which such commissions, brokerage or other compensations were paid by suppliers.

PAR. 5. The acts and practices of the parties respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C., Title 15, Section 13).

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Restraint of Trade proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of subsection (c) of Section 2 of the Clayton Act, as amended; and

The respondents and counsel for the Commission having, pursuant to the Commission's 1963 Rules of Practice, executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission

by the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated subsection (c) of Section 2 of the Clayton Act, as amended, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, has accepted said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent United Sales, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas. Its office and principal place of business was located at 4235 Janesville Street, Wichita, Kansas until January 3, 1967. Its principal place of business is now located at 315 S. Gladstone, Kansas City, Missouri.

Respondent Ray Mickle is an individual who is president of United Sales, Inc., and his address is the same as that of said corporation.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents.

ORDER

It is ordered, That respondents United Sales, Inc., a corporation, and its officers and Ray Mickle, individually and as President of United Sales, Inc., and their agents, representatives and employees, directly or through any corporate or other device, in connection with the purchase of food commodities and other products, in commerce, as "commerce" is defined in the amended Clayton Act, do forthwith cease and desist from:

Receiving or accepting, directly or indirectly from any seller, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any purchase of food commodities or any other commodity for respondents' own account or where respondents are the agents, representatives or other intermediaries acting for, or in behalf of, or are subject to, the direct or indirect control of, any buyer or any buyer's officer, agent, representative or employee.

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.

Complaint

72 F.T.C.

IN THE MATTER OF

RIGLEY DISTRIBUTING CO., INC., ET AL.

CONSENT ORDER, IN REGARD TO THE ALLEGED VIOLATION OF
SECTION 2 (c) OF THE CLAYTON ACT*Docket C-1255. Complaint, Sept. 25, 1967—Decision, Sept. 25, 1967*

Consent order requiring a Lawrence, Kansas, food broker to cease accepting illegal brokerage in connection with the sale of food products.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly described, have been and are now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C., Title 15, Section 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Rigley Distributing Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas, with its office and principal place of business located at 901 Kentucky Street, Lawrence, Kansas.

Respondent James Shirley is an individual who is president of Rigley Distributing Co., Inc. His principal office and place of business is the same as that of the corporate respondent. This respondent has operated Rigley Distributing Co., Inc., since 1964 and holds all shares of stock in personal "trust" for respondent Robert L. Fellers, former president of Griff's of America, Inc., which company operates its own hamburger stands and also franchises independently owned hamburger stands in approximately twenty (20) States located primarily in the Midwestern States.

Respondent Robert L. Fellers is an individual and an officer of respondent Rigley Distributing Co., Inc. For the past several years until November 30, 1966, he was also an officer and general manager of Griff's of America, Inc., and as such owned 49% of the stock in Griff's of America, Inc. Respondent Fellers' principal place of business is 901 Kentucky Street, Lawrence, Kansas.

PAR. 2. Respondent Rigley has operated as an agent or representative of respondent Fellers in his individual capacity.

Respondent Rigley has received commissions, brokerage or other compensations, in connection with the purchase of food commodities and other products for resale or use by Griff's of America, Inc., through its own and franchised hamburger stands.