

Complaint

72 F.T.C.

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.

IN THE MATTER OF
GRIFF'S OF AMERICA, INC.

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

Docket C-1256. Complaint, Sept. 25, 1967—Decision, Sept. 25, 1967

Consent order requiring a Dallas, Texas, corporation which operates and franchises hamburger stands to cease engaging in illegal brokerage activities in the sale of food products.

COMPLAINT

The Federal Trade Commission, having reason to believe that the respondent named in the caption hereof, and hereinafter more particularly described, has been and is 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 Griff's of America, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 700 Tower Petroleum Building, Dallas, Texas.

PAR. 2. The respondent is now and for the past several years has been, engaged in the business of operating and franchising hamburger stands in the Middle West portion of the United States, known as Griff's Burger Bars. The respondent operates its own hamburger stands in the States of Kansas, Missouri, Oklahoma, Louisiana, Texas and New Mexico. Its franchised operations are located in more than 20 States, some of which are Kansas, Iowa, Texas, Missouri, Minnesota, Colorado and Kentucky. Respondent's total annual volume of sales including its franchised units, is in excess of \$20,000,000.

PAR. 3. In the course and conduct of its business for the past several years, the respondent named herein, directly or indirectly, has 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 said respondent and the sellers of said products.

PAR. 4. In the course and conduct of its said business for the past several years, respondent has been collecting and receiving, directly or indirectly, commissions, brokerage or other compensations paid by suppliers on purchases of food commodities and other products by the respondent, either directly or through an intermediary.

It is further alleged that since on or about January 1, 1964, respondent either directly or indirectly, has received from two brokerage companies, first from United Sales, Inc., and from in or about August 1965 from Rheuark Brokerage, Inc., approximately 90% of the commissions, brokerage or other compensations paid by suppliers on purchases by respondent and its franchised hamburger stands and passed on by the above-named companies to respondent.

PAR. 5. The respondent in receiving or accepting, directly or indirectly, commissions, brokerage or other compensations on purchases of food commodities and other products from suppliers as above-alleged and described, is 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 respondent named in the caption hereof, and the respondent 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 respondent with violation of subsection (c) of Section 2 of the Clayton Act, as amended; and

The respondent 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 respondent 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 respondent 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 respondent has violated said Act, 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 Griff's of America, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 700 Tower Petroleum Building, Dallas, Texas.

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

ORDER

It is ordered, That respondent Griff's of America, Inc., a corporation, and its officers, 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 product for respondent's own account or where respondent is the agent, representative or other intermediary acting for, or in behalf of, or is subject to, the direct or indirect control of, any buyer.

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.