

use of false, misleading or deceptive statements or representations.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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

JENS RISOM DESIGN, INC., ET AL.*

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

Docket 8740. Complaint, July 21, 1967—Decision, Jan. 30, 1968

Consent order requiring a New York City furniture manufacturer, to cease discriminating in price between customers who resell its furniture, in violation of Section 2(a) of the Clayton Act.

COMPLAINT

The Federal Trade Commission, having reason to believe that Jens Risom Design, Inc., and Jens Risom Design (California) Inc., the parties respondent named in the caption hereof and hereinafter more particularly designated and described, have violated and are now violating the provisions of subsection (a) of Section 2 of the Clayton Act (U.S.C., Title 15, Section 13) as amended by the Robinson-Patman Act, approved June 19, 1936, hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Jens Risom Design, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 444 Madison Avenue, New York, N.Y.

PAR. 2. Respondent Jens Risom Design (California) Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place

*Compliance of this order modified by order of March 20, 1968, p. 123 herein. Order setting date of compliance dated December 8, 1969.

of business located at 444 Madison Avenue, New York, N.Y. Respondent Jens Risom Design (California) Inc., is wholly owned and controlled by Jens Risom Design, Inc.

PAR. 3. Respondents are now, and for many years last past have been, engaged in the manufacture, sale and distribution of furniture and furniture products. These products are sold to a large number of customers located throughout the United States and in foreign lands. Sales of these products are substantial, amounting to about \$4 million per annum.

PAR. 4. In the course and conduct of their business, respondents have engaged and are now engaged in commerce, as "commerce" is defined in the Clayton Act. Respondents employ interstate means of communication with their customers in the consummation of sales and in the settling of accounts. Respondents ship, or cause to be shipped, their products from the States in which said products are manufactured to their customers, or to purchasers from their customers, located in other States of the United States and the District of Columbia. Thus, there is and has been, at all times mentioned herein, a continuous course of trade in commerce in said products across State lines between respondents and their customers.

PAR. 5. In the course and conduct of their business in commerce, respondents have been and now are discriminating in price, directly or indirectly, between different purchasers of their furniture and furniture products of like grade and quality by selling said products at higher prices to some purchasers than they sell said products to other purchasers, many of whom have been and now are in competition with the purchasers paying the higher prices.

PAR. 6. Included among, but not limited to, the aforesaid discriminations in price as above alleged, are the following:

For several years last past respondents have priced their line of products in terms of list prices. One class of respondents' customers purchases at said list prices less a discount of 40 percent while other classes of customers purchase at list prices less discounts ranging up to 50 + 10 percent. Various members of each class of customers compete with each other and with various members of each of the other classes.

PAR. 7. The effect of respondents' discriminations in price as alleged herein has been or may be substantially to lessen competition or tend to create a monopoly in the line of commerce in which respondents' customers are engaged, or to injure, destroy, or prevent competition with purchasers from respondents who receive the benefit of such discriminations.

Decision and Order

73 F.T.C.

PAR. 8. The aforesaid acts and practices constitute violations of the provisions of subsection (a) of Section 2 of the Clayton Act (U.S.C., Title 15, Section 13) as amended by the Robinson-Patman Act, approved June 19, 1936.

DECISION AND ORDER

The Commission having issued its complaint in this proceeding on July 28, 1967, charging the respondents named in the caption hereof with violation of Section 2(a) of the Clayton Act, as amended and said respondents having been served with a copy of that complaint; and

The respondents having thereafter filed a request pursuant to § 2.34(d) of the Rules to have the matter withdrawn from adjudication and the Commission having granted that request by its order dated October 23, 1967; and

The respondents and counsel for the Commission having executed an agreement containing an admission by respondents of all the jurisdictional facts set forth in the said complaint which had been issued, 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 alleged in said complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of 30 days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Jens Risom Design, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 444 Madison Avenue, in the city of New York, State of New York.

Respondent Jens Risom Design (California) Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 444 Madison Avenue, in the city of New York, State of New York. Respondent Jens Risom Design (California) Inc., is wholly owned and controlled by respondent Jens Risom Design, Inc.

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

120

Order

ORDER

It is ordered, That respondents Jens Risom Design, Inc., a corporation, and Jens Riscom Design (California) Inc., a corporation, and their officers, representatives, agents, and employees, directly or through any corporate or other device, in, or in connection with, the offering for sale, sale, or distribution of furniture and furniture products in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from:

Discriminating, directly or indirectly, in the price of such products of like grade and quality by selling to any purchaser at net prices higher than the net prices charged any other purchaser who in fact competes in the resale of such products with the purchaser paying the higher price.

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.

ORDER RULING ON RESPONDENTS' PETITION FOR RECONSIDERATION AND
REOPENING PROCEEDING AND MODIFYING THE COMMISSION'S DECISION.
MARCH 20, 1968

This matter having come on to be heard upon the petition for reconsideration filed by the respondents on February 23, 1968, requesting, among other things, that the Commission reconsider and withdraw the decision and order which issued on January 30, 1968, and issue a revised decision expressly providing that the order herein shall become final in the manner provided in the agreement containing consent order previously accepted by the Commission as the basis for disposition of this proceeding, and which petition further states that the request for reconsideration is not opposed by complaint counsel; and

The Commission being duly cognizant now as it was at the time of its acceptance of such agreement containing consent order that Paragraph 7 thereof recites, among other things, that the order to cease and desist to be entered shall not become final within the meaning of the Clayton Act, as amended, until the date of final disposition of the proceedings *In the Matter of Knoll Associates, Inc.*, Docket No. 8549, then pending on petition for review before the United States Court of Appeals for the Seventh Circuit [8 S.&D. 772]; and

The Commission being of the view that it is appropriate that the decision herein should contain express reference to the aforesaid agreement provision to the end that the accord in that respect be more clearly evident in the decision and the Commission having additionally determined that the order should not contain the customary direction for submission of a report of compliance with the order and that this proceeding should be reopened for the purpose of modifying and altering the decision and order in those respects:

It is therefore ordered. That this proceeding be, and it hereby is, reopened.

It is further ordered, That the third paragraph of the Commission's decision be, and it hereby is, stricken and the following inserted in lieu thereof.

The respondents and counsel for the Commission having executed an agreement containing an admission by respondents of all the jurisdictional facts set forth in the said complaint which had been issued, 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 alleged in said complaint, and waivers and other provisions as required by the Commission's Rules, and which agreement further provides that the order contained therein shall become final, within the meaning of the Clayton Act, as amended, on the date of final disposition of the proceedings *In the Matter of Knoll Associates, Inc.*, Docket No. 8549, now pending on petition for review before the United States Court of Appeals for the Seventh Circuit: and

It is further ordered, That the second paragraph of the Commission's order which directs the filing of a report of compliance be, and it hereby is, stricken.