

the nature of the disposition, supported by documentary proof.

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 of their compliance with this order.

IN THE MATTER OF
ALLIANCE ASSOCIATES, INC., ET AL.

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

Docket C-1339. Complaint, May 20, 1968—Decision, May 20, 1968

Consent order requiring a Coldwater, Mich., grocery brokerage firm to cease paying or receiving illegal brokerage fees, in violation of Section 2 (c) of the Clayton Act

COMPLAINT

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

PARAGRAPH 1. Respondent Alliance Associates, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its office and principal place of business located at 605 West Chicago Street, Coldwater, Michigan. This organization is a closed corporation, the majority of the outstanding stock being owned or controlled by respondent E. Lee Feller.

PAR. 2. Respondent E. Lee Feller is president of the corporate respondent and is also a member of its board of directors. He formulates, directs, and controls the acts and practices of the corporate respondent.

ent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 3. Respondent Alliance Associates, Inc., is now, and for the past several years has been, engaged in the brokerage business, purportedly representing various sellers located throughout the United States in connection with the sale and distribution of products sold in grocery stores. In representing such sellers in sales to various buyers, respondent Alliance Associates, Inc., is paid a commission or brokerage fee by such sellers.

PAR. 4. Respondent Alliance Associates, Inc., in the course and conduct of its brokerage business, has been, and is now effecting the sale and distribution of products sold in grocery stores in commerce, as "commerce" is defined in the Clayton Act, as amended for sellers located in the various States of the United States other than the State of Michigan in which respondent is located. Said respondent has transported or caused such products, when sold, to be transported from the sellers' places of business to the buyers' places of business located in other States. Thus, there has been at all times mentioned herein a continuous course of trade in commerce in the sale of such products by said respondent for sellers.

PAR. 5. In the course and conduct of its business for the past several years respondent Alliance Associate, Inc., has entered into contracts and working agreements with a number of supermarkets, grocery chains and wholesalers, sometimes hereinafter referred to as buyers, who purchase and resell products that are generally sold in grocery stores. Such products are purchased through the respondent Alliance Associates, Inc., from various sellers purportedly represented by the respondent as described in Paragraph Three. In many instances respondent receives open orders from buyers to secure merchandise from sellers regularly selling to such buyers or from new sources of supply depending upon whether the terms of sales are most advantageous to the buyer. Among the supermarket and grocery chains having said arrangement with respondent Alliance Associates, Inc., are the following: H. C. Bohack Co., Inc., Brooklyn, New York; P & C Food Markets, Inc., Syracuse, New York; Borman Food Stores, Inc., Detroit, Michigan; Eberhard Foods, Inc., Grand Rapids, Michigan; Fishers Foods, Inc., Canton, Ohio; Oscar Joseph Stores, Inc., Toledo, Ohio; Fred W. Albrecht Grocery Co., Akron, Ohio; The Giant Markets, Scranton, Pennsylvania; and Carlisle Food Markets, Carlisle, Pennsylvania. Most of the merchandise purchased by these buyers through respondent Alliance Associates, Inc., carries a private label or private brand as distinguished from national label or brand merchandise. Re-

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respondent Alliance Associates, Inc., has an understanding with the buyers that the latter will give priority consideration to purchasing all private label or brand merchandise from sellers through respondent. These private labels or private brands are owned either by the individual buyer or by respondent Alliance Associates, Inc. In some instances where the buyer owns the private label or brand they sell their interest in it to respondent for a nominal consideration. Respondent then grants a license to the buyer to use said label or brand on merchandise purchased through respondent from various sellers.

PAR. 6. Respondent Alliance Associates, Inc., renders valuable services, other than the purchasing services hereinbefore described, to the individual supermarket and grocery chain organizations referred to above. Respondent furnishes to these buyers a service which consists of keeping them advised by bulletins and otherwise of the market conditions and the prices of commodities offered for sale by the various sellers some of whom compete with each other. Respondent, on behalf of the buyers, conducts tests on products sold by them in order to insure that the quality is satisfactory and represents the best value. The expenses incurred by such tests are paid in whole or in part by respondent. In addition, respondent renders at its expense, valuable advertising, promotional and developmental services for the supermarkets and grocery chain buyers all of which are designed to increase the private label or private brand sales of such customers. These services include, among others, the preparation and organization of promotional sales campaigns by supplying the personnel who are responsible for planning, executing and supervising such activities. Besides furnishing the personnel and the concept of promotional campaigns, the respondent also supplies the artwork, pictorial displays, advertising mats and various other material and services. Respondent Alliance Associates, Inc., represents to the supermarket and grocery chain organizations that it will expend approximately 30 percent of the brokerage fee or commissions it receives from sellers on purchases by such customers for the various services that it renders to them.

PAR. 7. In view of the relationship described above, respondent Alliance Associates, Inc., in the conduct of its business is acting for and in behalf of the various buyers or has been subject to the direct or indirect control of such buyers. The acts and practices of respondent Alliance Associates, Inc., in accepting or receiving a brokerage fee or commission from sellers on sales to the various supermarkets and grocery chain buyers in connection with such buyers' purchases in commerce of products sold in grocery stores amount to the payment by the seller of a brokerage fee or commission to an agent of the buyer

In all of the buying-selling transactions hereinabove referred to, the brokerage fee or commissions are paid and transmitted by the seller to and accepted and received by the respondent, Alliance Associates, Inc., upon the purchases of the supermarket and grocery store organizations, while the said respondent is acting in fact for and in behalf of such buyers.

PAR. 8. In addition, and without regard to whether Alliance Associates, Inc., was acting for and in behalf of the buyer or seller, the acts and practices of respondent Alliance Associates, Inc., in passing on a portion of the brokerage fee or commission paid by the seller to the buyers in the form of services performed and other considerations granted amount to the payment of a commission, brokerage or an allowance or discount in lieu thereof to the buyers.

PAR. 9. The acts and practices of respondent as heretofore alleged, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of subsection (c) of Section 2 of the Clayton Act, as amended, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the complaint to issue herein, 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 such 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 thirty (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 Alliance Associates, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the

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State of Michigan, with its office and principal place of business located at 605 West Chicago Street, Coldwater, Michigan.

Respondent E. Lee Feller is president of said corporation and is also a member of its board of directors. 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 Alliance Associates, Inc., a corporation, and its officers, and E. Lee Feller, individually and as an officer and stockholder of Alliance Associates, Inc., and respondents' agents, representatives and employees, directly or through any corporate or other device, in or in connection with the purchase, in commerce, as "commerce" is defined in the Clayton Act, as amended, of products sold in grocery stores do forthwith cease and desist from:

1. (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 such products for the account of any buyer, so long as any relationship exists between said brokerage organization and the buyer organization, either through ownership, control or management, or where respondents Alliance Associates, Inc., or E. Lee Feller is the agent, representative or other intermediary acting for or in behalf or is subject to the direct or indirect control of any buyer.

2. Directly or indirectly paying, transmitting or delivering to any buyer anything of value as a commission, brokerage or other compensation, or any allowance or discount in lieu thereof, received from any seller, either in the form of rebates or services, facilities or other benefits provided or furnished by respondents Alliance Associates, Inc., or E. Lee Feller to such buyers.

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.

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IN THE MATTER OF

MAIN SEWING CENTER, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-1340. Complaint, May 20, 1968—Decision, May 20, 1968*

Consent order requiring an Elkhart, Ind., seller of sewing machines, vacuum cleaners and similar products to cease using bait advertising, false pricing and saving claims, fictitious contests, false guarantees, and other deceptive sales practices.

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 Main Sewing Center, Inc., a corporation, and Eugene G. Van Dusen and Gene A. Bridger, individually and as officers of said corporation, hereinafter referred to as respondents, 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 in that respect as follows:

PARAGRAPH 1. Main Sewing Center, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its principal office and place of business located at 1039 South Main Street, in the city of Elkhart, State of Indiana.

Respondents Eugene G. Van Dusen and Gene A. Bridger are individuals and are officers of the corporate respondent. They formulate direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of sewing machines, vacuum cleaners and related products directly to the public and to other retailers for resale to the public.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their places of business in the State of Indiana to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned