
IN THE MATTER OF
KORELL CORPORATION

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

Docket 8777. Complaint, Apr. 10, 1969—Decision, May 13, 1970

Consent order requiring a Mechanicville, N.Y., manufacturer of women's dresses to cease making advertising and promotional allowances to some of its retail customers but not to the competitors of such retailers on proportionally equal terms in violation of Sec. 2(d) of the Clayton Act.

COMPLAINT

The Federal Trade Commission having reason to believe that the party named in the caption hereof, and hereinafter more particularly designated and described, has violated and is now violating the provisions of subsection (d) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, U.S.C. Title 15, Section 13, hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent, Korell Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 18 South Main Street, Mechanicville, New York.

PAR. 2. Respondent is now and has been engaged in the manufacture, distribution and sale of women's dresses under the trade names of Korell and Patty Petite. McKettrick, a third trade name used by respondent was discontinued during 1966. Respondent sells its products to retail specialty and department stores located throughout the United States. Respondent's total annual sales have been substantial, exceeding nine million dollars for the calendar year ending December 31, 1965, and eight million dollars for the calendar year ending December 31, 1964.

PAR. 3. In the course and conduct of its business, respondent has engaged and is now engaging in commerce, as "commerce" is defined in the Clayton Act, as amended, in that respondent sells and causes its products to be transported from its place of business located in the State of New York, to customers located in other States of the United States and in the District of Columbia. There has been at all times mentioned herein a continuous course of trade in commerce in said products across State lines between said respondent and its customers.

PAR. 4. In the course and conduct of its business in commerce, respondent paid or contracted for the payment of something of value to or for the benefit of some of its customers as compensation or in consideration for services or facilities furnished by or through such customers in connection with their offering for sale or sale of products sold to them by respondent, and such payments were not made available on proportionally equal terms to all other customers competing in the sale and distribution of respondent's products.

PAR. 5. Included among the payments alleged in Paragraph Four were credits, or sums of money, paid either directly or indirectly by way of discounts, allowances, rebates or deductions, as compensation

or in consideration for promotional services or facilities furnished by customers in connection with the offering for sale, or sale of respondent's products, including advertising in various forms, such as newspapers and catalogues.

Illustrative of such practices, but not limited thereto, respondent, during the period 1965 through 1966, made payments and allowances to various customers in various areas, including the cities of Philadelphia, Pennsylvania; Atlanta, Georgia and the surrounding areas of each, for advertising services furnished by such customers in connection with the sale or offering for sale of respondent's products as follows:

Philadelphia, Pennsylvania Area

Customer	Amount of allowance	
	1965	1966
Strawbridge & Clothier.....	\$1,459.00	\$850.00

Atlanta, Georgia Area

Customer	Amount of allowance	
	1965	1966
Rich's Inc.....	\$668.00	\$558.00

Respondent did not offer and otherwise make available such promotional allowances on proportionally equal terms to all other customers in the Philadelphia, Pennsylvania, and Atlanta, Georgia, metropolitan areas, competing with those who received such allowances.

PAR. 6. The acts and practices of respondent as alleged above are in violation of subsection (d) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act (U.S.C. Title 15, Section 13).

DECISION AND ORDER

The Commission having issued its complaint on April 10, 1969, charging respondent with violation of Section 2(d) of the Clayton Act, as amended, and respondent having been served with a copy of that complaint; and

The Commission having determined upon respondent's request, that the circumstances are such that the public interest would be served by waiver here of the provision of § 2.34(d) of its Rules that

the consent order procedure shall not be available after issuance of complaint; and

The hearing examiner having certified to the Commission respondent's duly executed agreement containing a consent order, an admission by respondent 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 respondent 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 Korell Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 18 South Main Street, in the city of Mechanicville, State of New York.

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

ORDER

It is ordered, That respondent Korell Corporation, a corporation, its officers, directors, agents, representatives and employees, directly or indirectly, or through any corporate or other device, in the course of its business in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from:

Paying or contracting for the payment of anything of value to, or for the benefit of, any customer of the respondent as compensation for or in consideration of advertising or promotional services, or any other service or facility furnished by or through such customer in connection with the handling, sale, or offering for sale of wearing apparel products manufactured, sold or offered for sale by respondent, unless such payment or consideration is made available on proportionally equal terms to all other customers competing with such favored customer in the distribution or resale of such products.

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 respondent notify the Commission at

Complaint

77 F.T.C.

least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.
