
IN THE MATTER OF
AMSTAR CORPORATION*

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

Docket C-1886. Complaint, Mar. 30, 1971—Decision, Mar. 30, 1971

Consent order requiring a business engaged in the manufacture and sale of sugar for retail and commercial purposes with headquarters in New York City to cease violating Sec. 2(d) of the Clayton Act by paying advertising and promotional allowances to certain of its customers while not making such payments available to all its customers who compete with the favored customers in the sale of its products.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent 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 (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 Amstar Corporation 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 120 Wall Street, New York, New York; that on October 28, 1970, American Sugar Company changed its name to Amstar Corporation by amendment of its Certificate of Incorporation.

PAR. 2. Respondent is now, and for many years has been, engaged

*Formerly named American Sugar Company.

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in the business of manufacturing and selling sugar for retail and commercial purposes. Respondent corporation's net sales and operating revenues for the year ending June 30, 1970, amountd to \$551,483,-000. For the calendar year ending on December 31, 1968, the net sales and operating revenues amounted to \$502,629,000.

PAR. 3. Respondent has refineries, warehouses, beet sugar factories, and plants located in various States of the United States from which points its sugar products are shipped to customers located in other States of the United States and the District of Columbia for resale and use within the United States. Respondent is now, and for some time past has been, engaged in commerce, as "commerce" is defined in the Clayton Act, as amended.

PAR. 4. Respondent, in the course and conduct of this business, has been, and is now, in competition with other corporations, individuals, partnerships, and firms engaged in manufacturing, selling, and distributing similar products in commerce between and among the various States of the United States and the District of Columbia. Many of the respondent's purchasers are competitively engaged in the resale of its products at wholesale and retail in various cities and areas where said purchasers respectively carry on their business.

PAR. 5. On April 1, 1970, and subsequent thereto, in the course and conduct of its business in commerce, respondent corporation inaugurated a plan whereby it paid or contracted for the payment of something of value to or for the benefit of some of its customers or purchasers as compensation or in consideration for services or facilities furnished by or through such customers or purchasers in connection with the handling, offering for sale, or sale of products sold to them by said respondent corporation, and such payments were not made available on proportionally equal terms to all other customers competing in the distribution of its products.

PAR. 6. On April 1, 1970, respondent inaugurated a so-called "Merchandising Performance Agreement Plan No. 364" for its customers located in Wisconsin and the Upper Peninsula of Michigan whereby it paid certain amounts of money per month to such customers upon receipt of proof-of-performance in connection with advertising and display of Domino Granulated Sugar packed in five-pound and/or ten-pound bags (12-5 lb., 6-10 lb. bundles). While the plan or agreement did not indicate the basis on which the amount payable to each customer was to be determined, respondent proportionalized the amount on the basis of the customer's generalized market share of dry grocery business for the year 1969 in the territory covered by the agreement. Because the dollar amount had no necessary relation-

ship to the customer's purchases of sugar from respondent during the performance period, such a plan was nonproportional.

PAR. 7. The plan described in Paragraph Six was offered to direct buyers of sugar and also to those wholesalers who supplied sugar to indirect-buying retailers. The agreement did not direct or indicate to the wholesalers the precise method or basis on which they were to proportionlize, and such wholesalers were free to choose any method of proportionalization. With different wholesalers selecting a different basis for portionalizing, the plan (as between the customers of different wholesalers) was nonproportional. While the wholesaler was obligated to pass on the whole amount of its allowance to those of its customers who performed, the performing customers of the wholesaler received different amounts than those who were direct-buying customers of the respondent, as each wholesaler was permitted to use a different method of proportionalization.

PAR. 8. The acts and practices of the respondent corporation as alleged above, violate 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 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 Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of subsection (d) of Section 2 of the Clayton Act, as amended; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent 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 respondent 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 Section 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 Amstar Corporation 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 120 Wall Street, New York, New York; and
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent.

ORDER

It is ordered, That the respondent, Amstar Corporation, a corporation, and its officers, agents, representatives and employees, successors and assigns, directly or through any corporate or other device, in or in connection with the sale of sugar and other related products, 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 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 said products, unless such payment or consideration is made available on proportionally equal terms to all other customers, including customers who do not purchase directly from respondent, who compete with such favored customers in the distribution or resale of such products.

It is further ordered, That respondent corporation deliver a copy of this order to cease and desist to each of its operating divisions and to all present personnel of respondent engaged in the sale of respondent's sugar and other related products within the United States.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent which may affect compliance obligation arising out of the order, including such changes as dissolution, assignment, or sale resulting in the emergence of a successor corporation or the creation or dissolution of subsidiaries, except that if respondent has less than thirty (30) days prior knowledge of a proposed change, respondent shall notify the Commission as promptly as possible, and in no event more than thirty (30) days after respondent has such knowledge.

It is further ordered, That respondent shall within sixty (60) days after service upon it of this order, file with the Commission its report in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist contained herein.

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IN THE MATTER OF

LONDON CREDIT AND DISCOUNT CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 8812. Complaint, Mar. 30, 1970*—Decision, Apr. 1, 1971*

Consent order requiring three affiliated Mentor, Ohio, debt collection agencies to cease making various false representations in recruiting employees, making various false representations to clients/creditors as to how their accounts are handled, misrepresenting that respondents have a "Medical Service Division," using threats of legal action and simulated legal documents was originated by an independent auditing agency, using deceptive questionnaires, and implying that failure to pay respondents will injure debtor's reputation.

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 London Credit and Discount Corporation, Fidelity Credit Acceptance Corporation, Security Credit Acceptance Corporation and American Management and Business Service Corporation, corporations, and the individuals Richard B. Rosenkeimer, the founder and principal shareholder of London Credit and Discount Corporation, Fidelity Credit Acceptance Corporation, and Security Credit Acceptance Corporation; George M. Hyde, president and treasurer of American Management and Business Service Corporation and Security Credit Acceptance Corporation; Edward L. Weisbarth, president and treasurer of Fidelity Credit Acceptance Corporation; Kathryn R. Tibbetts, vice president and secretary of Fidelity Credit Acceptance Corporation and London Credit and Discount Corporation and a shareholder of Security Credit Acceptance Corporation and London Credit and Discount Corporation; H. Frank Gill, president, treasurer and shareholder of London Credit and Discount Corporation and sales manager of Fidelity Credit Acceptance Corporation; William C. Childs, vice president, secretary and sales manager of Security Credit Acceptance Corporation, and shareholder of London Credit and Discount Corporation; Robert F. Hitzel, president and treasurer and shareholder of Security

*Reported as amended by Hearing Examiner's order of June 22, 1970, by amending Paragraphs Ten and Eleven.