

CONSOLIDATED FOODS CORPORATION

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

Docket C-2454. Complaint, Sept. 12, 1973—Decision, Sept. 12, 1973.

Consent order requiring a widely diversified company based in Chicago, Illinois, which, through its Conso Products Company Division, is extensively engaged in the manufacture and distribution of decorative fabric trimmings and accessories, among other things to cease discriminating in price by charging some purchasers higher and less favorable prices for their products than it charges their competitors.

Appearances

For the Commission: *Lester G. Grey.*

For the respondent: *J. Wallace Adair, of Howrey, Simon, Baker & Murchison, Washington, D.C.*

COMPLAINT

The Federal Trade Commission, having reason to believe that respondent Consolidated Foods Corporation has violated and is now violating the provisions of Section 2(a) of the Clayton Act (U.S.C. Title 15, Sec. 13), as amended, hereby issues this complaint, stating its charges with respect thereto as follows:

Complaint

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PARAGRAPH 1. Respondent Consolidated Foods Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 135 South La Salle Street, Chicago, Illinois.

PAR. 2. Respondent is a widely diversified company engaged in many lines of business which it conducts through a number of operating divisions, one of which is its Conso Products Company Division. For fiscal 1971, respondent's total net sales for all its product lines was \$1,621,688,000, of which approximately \$45,000,000 represented net sales of its Conso Products Company Division.

PAR. 3. Respondent through its Conso Products Company Division, (hereinafter at times referred to as Conso) for many years has been and is now extensively engaged in the business of manufacturing, distributing and selling decorative fabric trimmings and trimmings accessories products to manufacturers, jobbers and retailers. Conso has manufacturing plants and warehouses located in several of the States of the United States. Deliveries by Conso to purchasers and customers have been, and are now, made largely either directly from its manufacturing plants or from its warehouses.

PAR. 4. In the course and conduct of its business, respondent, through its Conso Products Company Division, sells and distributes its decorative fabric trimmings and trimmings accessories products of like grade and quality for use, consumption or resale within the United States to purchasers thereof located in states other than the state of origin of said products, and causes such products, when sold, to be shipped and transported from its place of business in the state of origin to purchasers located in other states. There is now, and has been, a constant current of trade in commerce, as "commerce" is defined in the amended Clayton Act, in said products by Conso between and among the various States of the United States and the District of Columbia.

PAR. 5. Respondent, through its Conso Products Company Division, in the course and conduct of its said business is now, and at all times referred to herein has been, in substantial competition with others engaged in the manufacture, distribution and sale of decorative fabric trimmings and trimmings accessories products in commerce between and among the various States of the United States and the District of Columbia.

Many of Conso's purchasers of said products are, and have been, in substantial competition with other of its purchasers of said products.

PAR. 6. In the course and conduct of its business in commerce, respondent, through its Conso Products Company Division, has been, and is now discriminating in price between different purchasers of its products of like grade and quality by selling said products to some purchasers at higher and less favorable prices than the prices charged competing purchasers for such products of like grade and quality.

PAR. 7. The effect of Conso's discrimination in price, as above alleged, may be substantially to lessen competition or tend to create a monopoly in the lines of commerce in which Conso and its purchasers are respectively engaged, or to injure, destroy or prevent competition with Conso and with purchasers from Conso who receive the benefit of such discriminations.

PAR. 8. The acts and practices of the respondent, through its Conso Products Company Division, as alleged above, violate Section 2(a) of the amended Clayton Act.

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 New York Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of Section 2(a) 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 aforesaid draft of 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 alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement 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

Decision and Order

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hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Consolidated Foods Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at 135 South LaSalle Street, Chicago, Illinois.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Consolidated Foods Corporation, a corporation, its successors and assigns and respondent's officers, agents, representatives and employees directly or through any corporation, subsidiary, division or other device, in connection with the offering for sale, sale or distribution of decorative fabric trimmings and trimmings accessories products in commerce, as "commerce" is defined in the Clayton Act, as amended, 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 to any other purchaser competing in fact in the resale or distribution of such products.

"Net price" as used in this order shall mean the ultimate cost to the purchaser, and, for purposes of determining such cost, there shall be taken into account all rebates, allowances, commissions, discounts, credit arrangements, terms and conditions of sale, and other forms of direct and indirect price reductions, by which ultimate cost to the purchaser is affected.

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 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.

It is further ordered, That the respondent 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 it has complied with this order.

Complaint

IN THE MATTER OF

CLASSIC CARPET CENTER, INC. TRADING AS
CARPETERIA, ET AL.

CONSENT ORDER IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL
TRADE COMMISSION AND THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACTS

Docket C-2455. Complaint, Sept. 17, 1973—Decision, Sept. 17, 1973.

Consent order requiring a Fairfax, Virginia, retailer of carpets and floor coverings, among other things to cease misrepresenting the word "sale;" misrepresenting prices as reduced; misrepresenting comparative prices; misrepresenting percentage savings; falsely advertising the value of carpet remnants; misrepresenting the availability of supplies and prices to competitors; misrepresenting the amount, type, or extent of credit terms respondents may arrange for its customers; falsely advertising and misbranding its textile fiber products; and failing to maintain adequate records.

Appearances

For the Commission: *Everette E. Thomas.*

For the respondents: *Ronald Goldberg*, Silver Spring, Md.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Classic Carpet Center, Inc., a corporation, trading and doing business as Carpeteria, and Michael J. Lightman and William R. Lightman, individually and as officers of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of said Acts, and the rules and regulations promulgated under the Textile Fiber Products Identification 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. Respondent Classic Carpet Center, Inc., trading and doing business as Carpeteria, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 9542 Arlington Boulevard, Fairfax, Virginia.