

May 1961, become the decision of the Commission; and, accordingly:

*It is ordered,* That respondent herein shall, within sixty (60) days after service upon it 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 the order to cease and desist.

---

IN THE MATTER OF

GROVELAND FRUIT COMPANY, INC.

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

*Docket 7919. Complaint, June 3, 1960—Decision, May 19, 1961*

Consent order requiring a Groveland, Fla., packer of citrus fruit to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

COMPLAINT

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

PARAGRAPH 1. Respondent Groveland Fruit Company, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Groveland, Florida, with mailing address as Post Office Box 98, Groveland, Florida.

PAR. 2. Respondent is now and for the past several years has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter sometimes referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers as well as direct to customers located in many sections of the United States. When brokers are utilized in making sales for it, the respondent pays them for their services a brokerage or commission, usually at the rate of 10 cents per  $1\frac{3}{5}$  bushel box. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now sell-

ing and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within the state, to such buyers or to the buyers' customers located in various other states of the United States. Thus there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted, or allowed, and is now paying, granting or allowing to these brokers and direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles* and *Mr. Ernest G. Barnes* for the Commission.  
*Mr. Counts Johnson*, of Tampa, Fla., for respondent.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this matter charges the respondent with violation of Section 2(c) of the Clayton Act, as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondent and its counsel and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and of the proposed order to cease and desist.

The agreement provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing ex-

aminer and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement, and the proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Groveland Fruit Company, Inc. is a corporation existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located in the City of Groveland, State of Florida, with mailing address as Post Office Box 98, Groveland, Florida.

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 Groveland Fruit Company, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

#### DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 25, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered,* That said decision be, and it hereby is, adopted as the decision of the Commission.

Complaint

58 F.T.C.

*It is further ordered,* That the respondent shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision.

## IN THE MATTER OF

## BATTAGLIA FRUIT COMPANY, INC.

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

*Docket 7922. Complaint, June 3, 1960—Decision, May 19, 1961*

Consent order requiring a packer of citrus fruit in Winter Garden, Fla., to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

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

PARAGRAPH 1. Respondent Battaglia Fruit Company, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Winter Garden, Florida, with mailing address as Post Office Box 398, Winter Garden, Florida.

PAR. 2. Respondent is now and since January 1, 1957 has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them for their services a brokerage or commission, usually at the rate of 10 cents per 1½ bushel box, or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling

and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports, or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within the State, to such buyers or to the buyers' customers located in various other states of the United States. Thus there has been, at all times mentioned herein, a continuous course of trade in commerce in such citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and other direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles* and *Mr. Ernest G. Barnes* for the Commission.

*Mr. Byrne Litschgi* of *Coles, Himes & Litschgi*, of Tampa, Fla., for respondent.

#### INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this matter charges the respondent with violation of Section 2(c) of the Clayton Act, as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondent and its counsel and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and of the proposed order to cease and desist.

The agreement provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact or conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing ex-

aminer and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and the proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Battaglia Fruit Company, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located in the City of Winter Garden, State of Florida, with mailing address as Post Office Box 398, Winter Garden, Florida.

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 Battaglia Fruit Company, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

#### DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 19th day of May 1961, become the decision of the Commission; and, accordingly:

*It is ordered*, That the respondent herein shall, within sixty (60) days after service upon it 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 the order to cease and desist.

---

IN THE MATTER OF  
ZELLWOOD FRUIT DISTRIBUTORS, INC.

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

*Docket 7923. Complaint, June 3, 1960—Decision, May 19, 1961*

Consent order requiring a Tampa, Fla., packer of citrus fruit to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

COMPLAINT

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

PARAGRAPH 1. Respondent Zellwood Fruit Distributors, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Zellwood, Florida, with mailing address as Post Office Box 103, Zellwood, Florida.

PAR. 2. Respondent is now and for the past several years has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter sometimes referred to as citrus fruit, or fruit products. Respondent sells and distributes its citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them for their services a brokerage or commission, usually at the rate of 10 cents per 1% bushel box, or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of

Florida in which respondent is located. Respondent transports or causes such citrus fruit, when sold, to be transported from its place of business or packing plant, or other places, in the State of Florida to such buyers, or to the buyers' customers, located in various other states of the United States. Thus there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted, or allowed, and is now paying, granting or allowing to these brokers and other direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles* and *Mr. Ernest G. Barnes* for the Commission.  
*Mr. Counts Johnson*, of Tampa, Fla., for respondents.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this matter charges the respondent with violation of Section 2(c) of the Clayton Act, as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondent and its counsel and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and of the proposed order to cease and desist.

The agreement provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the

837

## Order

same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and the proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Zellwood Fruit Distributors, Inc. is a corporation existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located in the City of Zellwood, State of Florida, with mailing address as Post Office Box 103, Zellwood, Florida.

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 Zellwood Fruit Distributors, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 25, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered.* That said decision be, and it hereby is, adopted as the decision of the Commission.

Complaint

58 F.T.C.

*It is further ordered,* That the respondent shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision.

---

IN THE MATTER OF

JOHN S. TAYLOR COMPANY (INC.)

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

*Docket 7924. Complaint, June 3, 1960—Decision, May 19, 1961*

Consent order requiring a Largo, Fla., packer of citrus fruit to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

COMPLAINT

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

PARAGRAPH 1. Respondent John S. Taylor Company (Inc.) is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Largo, Florida, with mailing address as Post Office Box 236, Largo, Florida.

PAR. 2. Respondent is now and for the past several years has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter sometimes referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them for their services a brokerage or commission usually at the rate of 5 cents per  $\frac{1}{2}$  bushel box or 10 cents per  $1\frac{1}{2}$  bushel box. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now sell-

ing and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports, or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or other places within the State, to buyers or to the buyers' customers located in various other states of the United States. Thus there has been, at all times mentioned herein, a continuous course of trade in commerce in such citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers and other direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and other direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles* and *Mr. Ernest G. Barnes* for the Commission.  
*Mr. Counts Johnson*, of Tampa, Fla., for respondent.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this matter charges the respondent with violation of Section 2(c) of the Clayton Act, as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondent and its counsel and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and of the proposed order to cease and desist.

The agreement provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in

disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and the proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued.

1. Respondent John S. Taylor Company (Inc.) is a corporation existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located in the city of Largo, State of Florida, with mailing address as Post Office Box 236, Largo, Florida.

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 John S. Taylor Company (Inc.), a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

#### DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 25, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered,* That said decision be, and it hereby is, adopted as the decision of the Commission.

840

## Complaint

*It is further ordered,* That the respondent shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision.

## IN THE MATTER OF

## SORRELLS BROS. PACKING CO., INC.

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

*Docket 7925. Complaint, June 3, 1960—Decision, May 19, 1961*

Consent order requiring a packer of citrus fruit in Arcadia, Fla., to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

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

PARAGRAPH 1. Respondent Sorrells Bros. Packing Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Arcadia, Florida, with mailing address as Post Office Box 551, Arcadia, Florida.

PAR. 2. Respondent is now and since 1956 has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter sometimes referred to as citrus fruit, or fruit products. Respondent sells and distributes its citrus fruit through brokers as well as direct to customers located in many sections of the United States. Where brokers are utilized in making sales for it, the respondent pays them for their services a brokerage or commission, usually at the rate of 10 cents per  $1\frac{3}{5}$  bushel box. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is de-

fined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within the state, to such buyers or to the buyers' customers located in various other states of the United States. Thus there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil J. Miles* and *Mr. Ernest G. Barnes* for the Commission.  
*Mr. William A. McRae, Jr.*, of Bartow, Fla., for respondent.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this matter charges the respondent with violation of Section 2(c) of the Clayton Act, as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondent and its counsel and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and of the proposed order to cease and desist.

The agreement provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force

and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and the proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Sorrells Bros. Packing Co., Inc. is a corporation existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located in the City of Arcadia, State of Florida, with mailing address as Post Office Box 551, Arcadia, Florida.

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 Sorrells Bros. Packing Co., Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

#### DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 25, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered*, That said decision be, and it hereby is, adopted as the decision of the Commission.

*It is further ordered*, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a

Complaint

58 F.T.C.

report, in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist contained in the aforesaid initial decision.

---

IN THE MATTER OF

## KNOWLES AND COMPANY

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

*Docket 7926. Complaint, June 3, 1960—Decision, May 19, 1961*

Consent order requiring a Leesburg, Fla., packer of citrus fruit to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

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

PARAGRAPH 1. Respondent Knowles and Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Leesburg, Florida, with mailing address as Post Office Box 466, Leesburg, Florida.

PAR. 2. Respondent is now and for the past several years has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter referred to as citrus fruit, or fruit products. Respondent sells and distributes its citrus fruit through brokers as well as direct to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them for their services a brokerage or commission usually at the rate of 10 cents per 1 $\frac{3}{5}$  bushel box, or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in

the several states of the United States other than the State of Florida in which respondent is located. Respondent transports or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within the state, to such buyers or to the buyers' customers located in various other states of the United States. Thus there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business, as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles* and *Mr. Ernest G. Barnes* for the Commission.  
*Mr. W. F. Robinson*, of Leesburg, Fla., for respondent.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding issued June 3, 1960, charges the respondent Knowles and Company, a Florida corporation, located at Leesburg, Florida, with violation of Section 2(c) of the Clayton Act, as amended, in connection with packing, selling and distributing citrus fruit or fruit products.

After the issuance of the complaint, respondent entered into an agreement containing consent order to cease and desist with counsel in support of the complaint, disposing of all the issues in this proceeding, which agreement was duly approved by the Director and Associate Director of the Bureau of Litigation.

It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

By the terms of said agreement, the respondent admitted all the jurisdictional facts alleged in the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with the allegations.

By said agreement, the respondent expressly waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

Respondent further agreed that the order to cease and desist, issued in accordance with said agreement, shall have the same force and effect as if made after a full hearing.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that said order may be altered, modified or set aside in the manner prescribed by the statute for orders of the Commission.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and, in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent named herein, and issues the following order:

#### ORDER

*It is ordered,* That the respondent, Knowles and Company, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting, or allowing, directly or indirectly, to any buyer, or to anyone acting for or in behalf of or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

#### DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 19th day of May 1961, become the decision of the Commission; and, accordingly:

*It is ordered,* That the respondent herein shall, within sixty (60)

846

## Complaint

days after service upon it 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 the order to cease and desist.

---

 IN THE MATTER OF

## LAKELAND HIGHLANDS COOPERATIVE ASSOCIATION

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

*Docket 7927. Complaint, June 3, 1960—Decision, May 19, 1961*

Consent order requiring a packer of citrus fruit in Highland City, Fla., to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

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

PARAGRAPH 1. Respondent Lakeland Highlands Cooperative Association is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Highland City, Florida, with mailing address as Post Office Box 188, Highland City, Florida.

PAR. 2. Respondent is now and for the past several years has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them for their services, a brokerage or commission at the following rates:

- 10 cents per  $1\frac{3}{5}$  bushel box
- 5 cents per  $1\frac{3}{5}$  bushel box, f.o.b. the packers plant—acceptance final
- 10 cents for 14 five-pound bags
- 10 cents for 9 eight-pound bags
- 10 percent of invoiced price of the fruit.

Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports, or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within the State, to such buyers or to the buyers' customers located in various other states of the United States. Thus there has been, at all times mentioned herein, a continuous course of trade in commerce in such citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and other direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles and Mr. Ernest G. Barnes* for the Commission.  
*Mr. J. Hardin Peterson*, of Lakeland, Fla., for respondent.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this matter charges the respondent with violation of Section 2(c) of the Clayton Act, as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondent and its counsel and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and of the proposed order to cease and desist.

The agreement provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together

with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and the proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Lakeland Highlands Cooperative Association is a corporation existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located in the City of Highland City, State of Florida, with mailing address as Post Office Box 188, Highland City, Florida.

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 Lakeland Highlands Cooperative Association, a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

#### DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 25, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered*, That said decision be, and it hereby is, adopted as the decision of the Commission.

Complaint

58 F.T.C.

*It is further ordered,* That the Respondent shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision.

---

IN THE MATTER OF

## LAKE WALES CITRUS GROWERS ASSOCIATION, INC.

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

*Docket 7928. Complaint, June 3, 1960—Decision, May 19, 1961*

Consent order requiring a Lake Wales, Fla., packer of citrus fruit to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

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

PARAGRAPH 1. Respondent Lake Wales Citrus Growers Association, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at North Walker Street, Lake Wales, Florida, with mailing address as Post Office Box 672, Lake Wales, Florida.

PAR. 2. Respondent is now and for the past several years has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are sometimes referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them for their services, usually at the rate of 10 cents per 1½ bushel box, except on auction sales, where the broker is compensated for his services usually at the rate of 8 cents per 1½ bushel box. Respond-

ent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports, or causes such citrus fruit, when sold, to be transported from its place of business or packing plant, or other places within the State of Florida, to such buyers, or to the buyers' customers, located in various other states of the United States. Thus there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit across state lines between respondent and the respective buyers of such citrus fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales to some, but not all, of its brokers and other direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and other direct buyers, on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent as above alleged and described are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles* and *Mr. Ernest G. Barnes* for the Commission.  
*Mr. Counts Johnson*, of Tampa, Fla., for respondent.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this matter charges the respondent with violation of Section 2(c) of the Clayton Act, as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondent and its counsel and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and of the proposed order to cease and desist.

The agreement provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that

## Order

58 F.T.C.

the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and the proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Lake Wales Citrus Growers Association, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at North Walker Street, in the City of Lake Wales, State of Florida, with mailing address as Post Office Box 672, Lake Wales, Florida.

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 Lake Wales Citrus Growers Association, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyers for his own account.

852

## Complaint

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 25, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered*, That said decision be, and it hereby is, adopted as the decision of the Commission.

*It is further ordered*, That the respondent shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision.

## IN THE MATTER OF

## PEACE RIVER PACKING COMPANY

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

*Docket 7929. Complaint, June 3, 1960—Decision, May 19, 1961*

Consent order requiring a citrus fruit packer in Fort Meade, Fla., to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

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

PARAGRAPH 1. Respondent Peace River Packing Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Fort Meade, Florida, with its mailing address as Post Office Box 248, Fort Meade, Florida.

PAR. 2. Respondent is now and for the past several years has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, grapefruit and tangerines, all of which are hereinafter sometimes referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through bro-

kers, as well as direct, to customers located in many sections of the United States. Respondent pays its brokers, when their services are utilized in making sales for it, a brokerage or commission, usually at the rate of 10 cents per 1 $\frac{3}{8}$  bushel box, or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports or causes such citrus fruit, when sold, to be transported from its place of business or packing plant, or other places in the State of Florida, to such buyers, or to the buyers' customers, located in various other states of the United States. Thus there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit across state lines between said respondent and the respective buyers of such citrus fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has made substantial sales of citrus fruit to some, but not all, of its brokers and other direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and other direct buyers on their own purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent as above alleged and described are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C., Title 15, Section 13).

*Mr. Cecil G. Miles* and *Mr. Ernest G. Barnes* for the Commission.  
No appearance for respondent.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding issued June 3, 1960, charges the respondent Peace River Packing Company, a Florida corporation, located at Fort Meade, Florida, with violation of Section 2(c) of the Clayton Act, as amended, in connection with packing, selling and distributing citrus fruit or fruit products.

After the issuance of the complaint, respondent entered into an agreement containing consent order to cease and desist with counsel in support of the complaint, disposing of all the issues in this pro-

855

## Order

ceeding, which agreement was duly approved by the Associate Director of the Bureau of Litigation.

It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

By the terms of said agreement, the respondent admitted all the jurisdictional facts alleged in the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with the allegations.

By said agreement, the respondent expressly waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

Respondent further agreed that the order to cease and desist, issued in accordance with said agreement, shall have the same force and effect as if made after a full hearing.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that said order may be altered, modified or set aside in the manner prescribed by the statute for orders of the Commission.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and, in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent named herein, and issues the following Order:

## ORDER

*It is ordered,* That the respondent, Peace River Packing Company, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting, or allowing, directly or indirectly, to any buyer, or to anyone acting for or in behalf of or who is subject to the

Complaint

58 F.T.C.

direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 19th day of May 1961, become the decision of the Commission; and, accordingly:

*It is ordered*, That respondent herein shall, within sixty (60) days after service upon it 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 the order to cease and desist.

## IN THE MATTER OF

## LAKELAND PACKING COMPANY, INC.

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

*Docket 7930. Complaint, June 3, 1960—Decision, May 19, 1961*

Consent order requiring a Lakeland, Fla., citrus fruit packer to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

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

PARAGRAPH 1. Respondent Lakeland Packing Company, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Lakeland, Florida, with mailing address as Post Office Box 1197, Lakeland, Florida.

PAR. 2. Respondent is now and since 1955 has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter referred to as citrus fruit or fruit products. Respondent sells and

distributes its citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them for their services a brokerage or commission, at a rate ranging from 4 to 10 cents per  $1\frac{3}{5}$  bushel box, or equivalent. However, the rate of brokerage or commission generally paid by respondent is 10 cents per  $1\frac{3}{5}$  bushel box, or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports, or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within the State, to such buyers or to the buyers' customers located in various other states of the United States. Thus there has been, at all times mentioned herein, a continuous course of trade in commerce in such citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and other direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles and Mr. Ernest G. Barnes for the Commission.*  
*Mr. Counts Johnson, of Tampa, Fla., for respondent.*

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this matter charges the respondent with violation of Section 2(c) of the Clayton Act, as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondent and its counsel and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement

is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and of the proposed order to cease and desist.

The agreement provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and the proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Lakeland Packing Company, Inc. is a corporation existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located in the City of Lakeland, State of Florida, with mailing address as Post Office Box 1197, Lakeland, Florida.

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 Lakeland Packing Company, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the

858

## Complaint

direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyers for his own account.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 25, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered*, That said decision be, and it hereby is, adopted as the decision of the Commission.

*It is further ordered*, That the respondent shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision.

---

 IN THE MATTER OF

## MARION COUNTY CITRUS COMPANY

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

*Docket 7931. Complaint, June 3, 1960—Decision, May 19, 1961*

Consent order requiring a packer of citrus fruit in Weirsdale, Fla., to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

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

PARAGRAPH 1. Respondent Marion County Citrus Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Weirsdale, Florida.

PAR. 2. Respondent is now and for the past several years has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them a brokerage or commission, some brokers at the rate of 10 cents per 1½ bushel box and others at the rate of from 8 to 10 percent of the total amount of the invoiced price of the fruit. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports, or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within the State, to such buyers or to the buyers' customers located in various other states of the United States. Thus there has been, at all times mentioned herein, a continuous course of trade in commerce in such citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and other direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. title 15, Section 13).

*Mr. Cecil G. Miles and Mr. Ernest G. Barnes* for the Commission.  
*Mr. Z. D. Giles*, of Leesburg, Fla., for respondent.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding issued June 3, 1960, charges the respondent Marion County Citrus Company, a Florida corpora-

861

## Order

tion, located at Weirsdale, Florida, with violation of Section 2(c) of the Clayton Act, as amended, in connection with packing, selling and distributing citrus fruit or fruit products.

After the issuance of the complaint, respondent entered into an agreement containing consent order to cease and desist with counsel in support of the complaint, disposing of all the issues in this proceeding, which agreement was duly approved by the Director and Associate Director of the Bureau of Litigation.

It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

By the terms of said agreement, the respondent admitted all the jurisdictional facts alleged in the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with the allegations.

By said agreement, the respondent expressly waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

Respondent further agreed that the order to cease and desist, issued in accordance with said agreement, shall have the same force and effect as if made after a full hearing.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that said order may be altered, modified or set aside in the manner prescribed by the statute for orders of the Commission.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and, in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent named herein, and issues the following order:

## ORDER

*It is ordered,* That the respondent, Marion County Citrus Company, a corporation, and its officers, agents, representatives, and

employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting, or allowing, directly or indirectly, to any buyer, or to anyone acting for or in behalf of or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale or citrus fruit or fruit products to such buyer for his own account.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having considered the hearing examiner's initial decision, filed on August 19, 1960, accepting an agreement containing a consent order to cease and desist, theretofore executed by the respondent and counsel supporting the complaint; and

It appearing that through inadvertence the word "or" appears as the second word in the eighth line of the order to cease and desist contained in the initial decision rather than the word "of" as used in the consent order to cease and desist contained in the agreement; and

The Commission being of the opinion that this departure from the order to cease and desist agreed to by the parties should be corrected:

*It is ordered,* That the initial decision of the hearing examiner be, and it hereby is, modified by striking from the eighth line of the order to cease and desist contained in said initial decision the word "or" as it appears immediately preceding the word "citrus" and substituting therefor the word "of".

*It is further ordered,* That the initial decision as so modified shall, on the 19th day of May, 1961, become the decision of the Commission.

*It is further ordered,* That the respondent Marion County Citrus Company, a corporation, shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision as modified.

IN THE MATTER OF  
NELSON & COMPANY, INC.

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

*Docket 7932. Complaint, June 3, 1960—Decision, May 19, 1961*

Consent order requiring a citrus fruit packer in Oviedo, Fla., to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

COMPLAINT

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

PARAGRAPH 1. Respondent Nelson & Company, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Oviedo, Florida, with mailing address as Post Office Box 236, Oviedo, Florida.

PAR. 2. Respondent is now and for the past several years has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter sometimes referred to as citrus fruits or fruit products. Respondent sells and distributes its citrus fruit through brokers as well as direct to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them for their services a brokerage or commission, usually at the rate of 5 cents per unit, but in some instances brokerage or commission is paid on a percentage basis and varies from 5% to 10%. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent trans-

ports or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within the state, to such buyers or to the buyers' customers located in various other states of the United States. Thus there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has made substantial sales of citrus fruit to some, but not all, of its brokers and other direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and other direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent as above alleged and described are in violation of subsection (1) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles* and *Mr. Ernest G. Barnes* for the Commission.  
*Mr. Roe H. Wilkins*, of Orlando, Fla., for respondent.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this matter charges the respondent with violation of Section 2(c) of the Clayton Act, as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondent and its counsel and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and the proposed order to cease and desist.

The agreement provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceedings, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in

865

Decision

the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and the proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Nelson & Company, Inc. is a corporation existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located in the City of Oviedo, State of Florida, with mailing address as Post Office Box 236, Oviedo, Florida.

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 Nelson & Company, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 25, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered*, That said decision be, and it hereby is, adopted as the decision of the Commission.

*It is further ordered*, That the respondent shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision.

Complaint

58 F.T.C.

IN THE MATTER OF

## PATRICK FRUIT CORPORATION

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF  
SEC. 2(c) OF THE CLAYTON ACT*Docket 7933. Complaint, June 3, 1960—Decision, May 19, 1961*

Consent order requiring a Sanford, Fla., packer of citrus fruit to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

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

PARAGRAPH 1. Respondent Patrick Fruit Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Sanford, Florida, with mailing address as Post Office Box 70, Sanford, Florida.

PAR. 2. Respondent is now and for the past several years has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter sometimes referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them for their services a brokerage or commission, usually at the rate of 10 cents per 1 $\frac{3}{5}$  bushel box. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports, or causes such citrus fruit, when sold, to be transported from its place of business or packing plant, or other places, within the State of Florida to such buyers, or to the buyers' customers, located in vari-

ous other states of the United States. Thus there has been, at all times mentioned herein, a continuous course of trade in commerce in said citrus fruit across state lines between respondent and the respective buyers of such citrus fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers, and other direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and other direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent as above alleged and described are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles* and *Mr. Ernest G. Barnes* for the Commission.  
No appearance for respondent.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding issued June 3, 1960, charges the respondent Patrick Fruit Corporation, a Florida corporation, located at Sanford, Florida, with violation of Section 2(c) of the Clayton Act, as amended, in connection with packing, selling and distributing citrus fruit or fruit products.

After the issuance of the complaint, respondent entered into an agreement containing consent order to cease and desist with counsel in support of the complaint, disposing of all the issues in this proceeding, which agreement was duly approved by the Director and Associate Director of the Bureau of Litigation.

It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

By the terms of said agreement, the respondent admitted all the jurisdictional facts alleged in the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with the allegations.

By said agreement, the respondent expressly waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

Decision

58 F.T.C.

Respondent further agreed that the order to cease and desist, issued in accordance with said agreement, shall have the same force and effect as if made after a full hearing.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that said order may be altered, modified or set aside in the manner prescribed by the statute for orders of the Commission.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and, in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent named herein, and issues the following order:

## ORDER

*It is ordered*, That the respondent Patrick Fruit Corporation, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting, or allowing, directly or indirectly, to any buyer, or to anyone acting for or in behalf of or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 19th day of May, 1961, become the decision of the Commission; and, accordingly:

*It is ordered*, That the respondent herein shall, within sixty (60) days after service upon it 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 the order to cease and desist.

## IN THE MATTER OF

## HOLLY HILL FRUIT PRODUCTS, INCORPORATED

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
SEC. 2(c) OF THE CLAYTON ACT*Docket 7934. Complaint, June 3, 1960—Decision, May 19, 1961*

Consent order requiring a citrus fruit packer in Davenport, Fla., to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

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

PARAGRAPH 1. Respondent Holly Hill Fruit Products, Incorporated is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Davenport, Florida, with mailing address as Post Office Box 5, Davenport, Florida.

PAR. 2. Respondent is now and for the past several years has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them for their services a brokerage or commission, usually at the rate of 10 cents per 1 $\frac{3}{5}$  bushel box, or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports, or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places

within the State, to such buyers or to the buyers' customers located in various other states of the United States. Thus there has been, at all times mentioned herein, a continuous course of trade in commerce in such citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and other direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles* and *Mr. Ernest G. Barnes* for the Commission.  
*Mr. R. B. Huffaker*, of Bartow, Fla., for respondent.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this matter charges the respondent with violation of Section 2(c) of the Clayton Act, as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondent and its counsel and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and of the proposed order to cease and desist.

The agreement provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the com-

871

Decision

plaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and the proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Holly Hill Fruit Products, Incorporated, is a corporation existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located in the City of Davenport, State of Florida, with mailing address as Post Office Box 5, Davenport, Florida.

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 Holly Hill Fruit Products, Incorporated, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 25, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered,* That said decision be, and it hereby is, adopted as the decision of the Commission.

*It is further ordered,* That the respondent shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision.

Complaint

58 F.T.C.

IN THE MATTER OF

O. D. HUFF, JR., GROVES, INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF  
SEC. 2(c) OF THE CLAYTON ACT*Docket 7935. Complaint, June 3, 1960—Decision, May 19, 1961*

Consent order requiring a packer of citrus fruit in McIntosh, Fla., to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

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

PARAGRAPH 1. Respondent O. D. Huff, Jr., Groves, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at McIntosh, Florida.

PAR. 2. Respondent is now and since 1957 has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter referred to as citrus fruit, or fruit products. Respondent sells and distributes its citrus fruit through brokers as well as direct to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them for their services a brokerage or commission, usually at the rate of 10 cents per 1 $\frac{3}{8}$  bushel box, or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within the state, to such buyers or to the buyers' customers

located in various other states of the United States. Thus there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles* and *Mr. Ernest G. Barnes* for the Commission.  
*Mr. Counts Johnson*, of Tampa, Fla., for respondent.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this matter charges the respondent with violation of Section 2(c) of the Clayton Act, as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondent and its counsel and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and of the proposed order to cease and desist.

The agreement provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the

Decision

58 F.T.C.

complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and the proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent O. D. Huff, Jr., Groves, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at McIntosh, Florida.

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 O. D. Huff, Jr., Groves, Inc., a corporation, and its offices, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 25, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered*, That said decision be, and it hereby is, adopted as the decision of the Commission.

*It is further ordered*, That the respondent shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision.

## Complaint

IN THE MATTER OF  
APOPKA FRUIT CO.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF  
SEC. 2(c) OF THE CLAYTON ACT*Docket 7936. Complaint, June 3, 1960—Decision, May 19, 1961*

Consent order requiring a citrus fruit packer at Apopka, Fla., to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

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

PARAGRAPH 1. Respondent Apopka Fruit Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Apopka, Florida, with mailing address as Post Office Box 627, Apopka, Florida.

PAR. 2. Respondent is now and for the past several years has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter sometimes referred to as citrus fruit, or fruit products. Respondent sells and distributes its citrus fruit through brokers as well as direct to customers located in many sections of the United States. Where brokers are utilized in making sales for it, respondent pays them for their services a brokerage or commission, usually at the rate of 10 cents per 1 $\frac{3}{8}$ th bushel box, or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several States of the United States other than the State of Florida in which respondent is located. Respondent transports or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other

places within the State, to such buyers or to the buyers' customers located in various other States of the United States. Thus there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted, or allowed, and is now paying, granting or allowing to these brokers and other direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles and Mr. Ernest G. Barnes for the Commission.*

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this matter charges the respondent with violation of Section 2(c) of the Clayton Act, as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondent and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and of the proposed order to cease and desist.

The agreement provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the

complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement, and the proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent, Apopka Fruit Co., is a corporation existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located in the City of Apopka, State of Florida, with mailing address as P. O. Box 627, Apopka, Florida.

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, Apopka Fruit Co., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

#### DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed February 2, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered*, That said decision be, and it hereby is, adopted as the decision of the Commission.

*It is further ordered*, That the respondent shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision.

Complaint

58 F.T.C.

IN THE MATTER OF  
ADAMS PACKING ASSOCIATION, INC.

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

*Docket 7998. Complaint, June 24, 1960—Decision, May 19, 1961*

Consent order requiring an Auburndale, Fla., citrus fruit packer to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

COMPLAINT

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

PARAGRAPH 1. Respondent Adams Packing Association, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Auburndale, Florida, with mailing address as Post Office Box 37, Auburndale, Florida.

PAR. 2. Respondent is now and since January 1, 1957 has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them for their services a brokerage or commission, usually at the rate of 10 cents per 1 $\frac{3}{8}$  bushel box, or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports, or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within the State, to such buyers or to the buyers' customers

located in various other states of the United States. Thus there has been, at all times mentioned herein, a continuous course of trade in commerce in such citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and other direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles* and *Mr. Ernest G. Barnes* for the Commission.  
*Mr. William A. McRae, Jr.*, of Bartow, Fla., for respondent.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on June 24, 1960, charging Respondent with violation of §2(c) of the Clayton Act, as amended, by paying, granting, or allowing commission, brokerage, compensation, or an allowance or discount in lieu thereof, to certain of its brokers and direct buyers, on purchases for their own account for resale.

Thereafter, on January 4, 1961, Respondent, its counsel, and counsel supporting the complaint herein entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Director and Associate Director of the Commission's Bureau of Litigation, and thereafter, on January 9, 1961, submitted to the Hearing Examiner for consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear beyond any possible doubt the intent of the complaint and of the proposed order to cease and desist.

The agreement identifies Respondent Adams Packing Association, Inc. as a Florida corporation, with its office and principal place of business located in Auburndale, Florida, with mailing address as Post Office Box 37, Auburndale, Florida.

Respondent admits all the jurisdictional facts alleged in the complaint, and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondent waives any further procedure before the Hearing Examiner and the Commission; the making of findings of fact and conclusions of law; and all of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only and does not constitute an admission by Respondent that it has violated the law as alleged in the complaint.

After consideration of the allegations of the complaint, and the provisions of the agreement and the proposed order, the Hearing Examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the Hearing Examiner accepts the Agreement Containing Consent Order To Cease And Desist; finds that the Commission has jurisdiction over the Respondent and over its acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

*It is ordered,* That the Respondent Adams Packing Association, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with the sale of citrus fruit or fruit products to such buyer for his own account.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 17, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered,* That said decision be, and it hereby is, adopted as the decision of the Commission.

*It is further ordered,* That the respondent shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision.

---

IN THE MATTER OF

ALTURAS PACKING COMPANY, INCORPORATED

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

*Docket 7999. Complaint, June 24, 1960—Decision, May 19, 1961*

Consent order requiring a packer of citrus fruit in Bartow, Fla., to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

COMPLAINT

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

PARAGRAPH 1. Respondent Alturas Packing Company, Incorporated, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Bartow, Florida, with mailing address as Post Office Box 837, Bartow, Florida.

PAR. 2. Respondent is now and for the past several years has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter sometimes referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them for their services, a brokerage or commission, usually at the rate of 10 cents per 1½ bushel box, or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed, and is now selling and distributing, its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several States of the United States other than the State of Florida in which respondent is located. Respondent transports or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within the State, to such buyers or to the buyers' customers located in various other States of the United States. Thus, there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been, and is now, making substantial sales of citrus fruit to some, but not all, of its brokers and other direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted, or allowed, and is now paying, granting or allowing to these brokers and direct buyers on their own purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles* and *Mr. Ernest G. Barnes* for the Commission.  
Respondent, for itself.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on June 24, 1960, charging Respondent with violation of §2(c) of the Clayton Act, as amended (U.S.C. Title 15, §13), by paying, granting or allowing to some of its brokers and other direct buyers purchasing citrus fruit or fruit products from Respondent for their own account for resale, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, on such purchases.

Thereafter, on October 3, 1960, Respondent and counsel supporting the complaint herein entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Director and the Associate Director of the Commission's Bureau of Litigation, and thereafter, on October 4, 1960, submitted to the Hearing Examiner for consideration.

The agreement identifies Respondent Alturas Packing Company, Incorporated, as a Florida corporation, with its office and principal place of business located at Bartow, Florida.

Respondent admits all the jurisdictional facts alleged in the complaint, and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondent waives any further procedure before the Hearing Examiner and the Commission; the making of findings of fact and conclusions of law; and all of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only and does not constitute an admission by Respondent that it has violated the law as alleged in the complaint.

After consideration of the allegations of the complaint, and the provisions of the agreement and the proposed order, the Hearing Examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the Hearing Examiner accepts the Agreement Containing Consent Order To Cease And Desist, finds that the Commission has jurisdiction over the Respondent and over its acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

*It is ordered,* That the Respondent, Alturas Packing Company, Incorporated, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting, or allowing, directly or indirectly, to any buyer, or to anyone acting for or in behalf of or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or dis-

Complaint

58 F.T.C.

count in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 19th day of May 1961, become the decision of the Commission; and, accordingly:

*It is ordered*, That respondent Alturas Packing Company, Incorporated, a corporation, shall, within sixty (60) days after service upon it 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 the order to cease and desist.

## IN THE MATTER OF

## ARVIDA FRUIT CO., INC.

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

*Docket 8000. Complaint, June 27, 1960—Decision, May 19, 1961*

Consent order requiring a citrus fruit packer in Ft. Pierce, Fla., to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

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

PARAGRAPH 1. Respondent Arvida Fruit Co., Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Ft. Pierce, Florida, with mailing address as P. O. Box 70, Ft. Pierce, Florida.

PAR. 2. Respondent is now, and for the past several years has been, engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter sometimes referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers, as well as direct, to customers located in many sections of

the United States. When brokers are utilized in making sales for it, respondent pays them for their services a commission or brokerage, usually at the rate of 10 cents per 1 $\frac{3}{5}$  bushel box, or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed, and is now selling and distributing, its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several States of the United States other than the State of Florida in which respondent is located. Respondent transports or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within the State, to such buyers or to the buyers' customers located in various other States of the United States. Thus, there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers and other direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted, or allowed, and is now paying, granting or allowing to these brokers and direct buyers on their own purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles and Mr. Ernest G. Barnes supporting the complaint.*

*Johnson & Johnson, of Tampa, Fla., for respondent.*

#### INITIAL DECISION OF JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondent on June 27, 1960, charging it with having violated Section 2(c) of the Clayton Act, as amended. After being served with said complaint, respondent entered into an agreement, dated December 13, 1960, containing a consent order to cease and desist purporting to dispose of all of this proceeding as to all parties, together with a stipulation making more specific the acts

and practices complained of and the intent of the order. Said agreement, which has been signed by respondent, by counsel for said respondent and by counsel supporting the complaint, and approved by the Director and Associate Director of the Commission's Bureau of Litigation, has been submitted to the above-named hearing examiner for his consideration, in accordance with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

Respondent, pursuant to the aforesaid agreement, has admitted all the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said agreement further provides that respondent waives any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law and all of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It has been agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing and that the complaint may be used in construing the terms of said order. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, and that said agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing consent order, together with the stipulation which has been made a part of said agreement, and it appearing that the order provided for in said agreement covers all of the allegations of the complaint and provides for an appropriate disposition of this proceeding as to all parties, said agreement is hereby accepted and is ordered filed upon this decision's becoming the decision of the Commission pursuant to Sections 3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and the hearing examiner, accordingly, makes the following jurisdictional findings and order:

1. Respondent Arvida Fruit Co., Inc. is a corporation existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located in the City of Ft. Pierce, State of Florida, with mailing address as Post Office Box 70, Ft. Pierce, Florida.

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

886

Syllabus

named. The complaint states a cause of action against said respondent under the provisions of the Clayton Act.

## ORDER

*It is ordered,* That the respondent Arvida Fruit Co., Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 31, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered,* That said decision be, and it hereby is, adopted as the decision of the Commission.

*It is further ordered,* That the respondent shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision.

---

 IN THE MATTER OF

## BABIJUICE CORPORATION OF FLORIDA

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

*Docket 8001. Complaint, June 27, 1960—Decision, May 19, 1961*

Consent order requiring an Orlando, Fla., packer of citrus fruit to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## Complaint

58 F.T.C.

## COMPLAINT

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

PARAGRAPH 1. Respondent Babijuce Corporation of Florida is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Orlando, Florida, with mailing address as Post Office Box 2215, Orlando, Florida.

PAR. 2. Respondent is now and since January 1, 1957 has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them for their services a brokerage or commission, usually at the rate of 10 cents per 1 $\frac{1}{2}$  bushel box, or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports, or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within the State, to such buyers or to the buyers' customers located in various other states of the United States. Thus there has been, at all times mentioned herein, a continuous course of trade in commerce in such citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and other direct buyers on their purchases, a commission, brokerage, or other compensation, or an

allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles* and *Mr. Ernest G. Barnes* for the Commission.  
*Gallop & Hadley*, of Boston, Mass., by *Mr. Martin W. Cohen*, for respondent.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondent with violation of Section 2(c) of the Clayton Act, as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondent and its counsel and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and of the proposed order to cease and desist. The word "agreement" as used hereinafter will include the stipulation.

The agreement provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Babyjuice Corporation of Florida is a Florida corporation with its office and principal place of business located in

Orlando, Florida, with mailing address as Post Office Box 2215, Orlando, Florida.

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 Babijuice Corporation of Florida, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 19th day of May 1961, become the decision of the Commission; and, accordingly:

*It is ordered,* That respondent herein shall, within sixty (60) days after service upon it 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 the order to cease and desist.

---

IN THE MATTER OF

THE CITRAPAK CORPORATION

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

*Docket 8002. Complaint, June 27, 1960—Decision, May 19, 1961*

Consent order requiring a citrus fruit packer in Orlando, Fla., to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

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

PAR. 1. Respondent The Citrapak Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Orlando, Florida, with mailing address as Post Office Box 1961, Orlando, Florida.

PAR. 2. Respondent is now and since January 1, 1957 has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them for their services a brokerage or commission, usually at the rate of 10 cents per 1 $\frac{3}{8}$  bushel box, or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida, in which respondent is located. Respondent transports, or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within the State, to such buyers or to the buyers' customers located in various other states of the United States. Thus there has been, at all times mentioned herein, a continuous course of trade in commerce in such citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and other direct buyers on their

purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles and Mr. Ernest G. Barnes* for the Commission.  
*Gallup & Hadley*, of Boston, Mass., by *Mr. Martin W. Cohen*, for respondent.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondent with violation of Section 2(c) of the Clayton Act, as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondent and its counsel and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and of the proposed order to cease and desist. The word "agreement" as used hereinafter will include the stipulation.

The agreement provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent The Citrapak Corporation is a Florida corporation with its office and principal place of business located in Orlando, Florida, with mailing address as Post Office Box 1961, Orlando, Florida.

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 The Citrapak Corporation, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 19th day of May 1961, become the decision of the Commission; and, accordingly:

*It is ordered*, That respondent herein shall, within sixty (60) days after service upon it 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 the order to cease and desist.

## IN THE MATTER OF

## DEERFIELD GROVES COMPANY, INC.

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

*Docket 8003. Complaint, June 27, 1960—Decision, May 19, 1961*

Consent order requiring a packer of citrus fruit in Wabasso, Fla., to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

Complaint

58 F.T.C.

## COMPLAINT

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

PARAGRAPH 1. Respondent Deerfield Groves Company, Inc. 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 Wabasso, Florida.

PAR. 2. Respondent is now and since January 1, 1957 has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them for their services a brokerage or commission, usually at the rate of 10 cents per 1 $\frac{3}{8}$  bushel box, or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports, or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within the State, to such buyers or to the buyers' customers located in various other states of the United States. Thus there has been, at all times mentioned herein, a continuous course of trade in commerce in such citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and other direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles* and *Mr. Ernest G. Barnes* supporting the complaint.

*Johnson & Johnson*, of Tampa, Fla., for respondent.

INITIAL DECISION OF JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondent on June 27, 1960, charging it with having violated Section 2(c) of the Clayton Act, as amended. After being served with said complaint, respondent entered into an agreement, dated December 14, 1960, containing a consent order to cease and desist purporting to dispose of all of this proceeding as to all parties, together with a stipulation making more specific the acts and practices complained of and the intent of the order. Said agreement, which has been signed by respondent, by counsel for said respondent and by counsel supporting the complaint, and approved by the Director and Associate Director of the Commission's Bureau of Litigation, has been submitted to the above-named hearing examiner for his consideration, in accordance with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

Respondent, pursuant to the aforesaid agreement, has admitted all the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said agreement further provides that respondent waives any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law and all of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It has been agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing and that the complaint may be used in construing the terms of said order. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, and that said agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing consent order, together with the stipulation which has been made a part of

said agreement, and it appearing that the order provided for in said agreement covers all of the allegations of the complaint and provides for an appropriate disposition of this proceeding as to all parties, said agreement is hereby accepted and is ordered filed upon this decision's becoming the decision of the Commission pursuant to Sections 3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and the hearing examiner, accordingly, makes the following jurisdictional findings and order:

1. Respondent Deerfield Groves Company, Inc. is a corporation 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 Wabasso, Florida.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent hereinabove named. The complaint states a cause of action against said respondent under the provisions of the Clayton Act.

ORDER

*It is ordered*, That the respondent Deerfield Groves Company, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 31, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered*, That said decision be, and it hereby is, adopted as the decision of the Commission.

*It is further ordered*, That the respondent shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision.

## Complaint

IN THE MATTER OF  
BEN HILL GRIFFIN, INC.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF  
SEC. 2(c) OF THE CLAYTON ACT

*Docket 8004. Complaint, June 27, 1960—Decision, May 19, 1961*

Consent order requiring a citrus fruit packer in Frostproof, Fla., to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

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

PARAGRAPH 1. Respondent Ben Hill Griffin, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Frostproof, Florida, with mailing address as Post Office Box 127, Frostproof, Florida.

PAR. 2. Respondent is now and since January 1, 1957 has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them for their services a brokerage or commission, usually at the rate of 10 cents per 1 $\frac{3}{8}$  bushel box, or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports, or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within the State, to such buyers or to the buyers' customers located

in various other states of the United States. Thus there has been, at all times mentioned herein, a continuous course of trade in commerce in such citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and other direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles and Mr. Ernest G. Barnes* for the Commission.  
Respondent, for itself.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on June 27, 1960, charging Respondent with violation of §2(c) of the Clayton Act, as amended, by paying, granting, or allowing commission, brokerage, compensation, or an allowance or discount in lieu thereof, to certain of its brokers and direct buyers, on purchases for their own account for resale.

Thereafter, on January 4, 1961, Respondent and counsel supporting the complaint herein entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Director and Associate Director of the Commission's Bureau of Litigation, and thereafter, on January 9, 1961, submitted to the Hearing Examiner for consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear beyond any possible doubt the intent of the complaint and of the proposed order to cease and desist.

The agreement identifies Respondent Ben Hill Griffin, Inc. as a Florida corporation, with its office and principal place of business located in Frostproof, Florida, with mailing address as Post Office Box 127, Frostproof, Florida.

Respondent admits all the jurisdictional facts alleged in the complaint, and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondent waives any further procedure before the Hearing Examiner and the Commission; the making of findings of fact and conclusions of law; and all of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only and does not constitute an admission by Respondent that it has violated the law as alleged in the complaint.

After consideration of the allegations of the complaint, and the provisions of the agreement and the proposed order, the Hearing Examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the Hearing Examiner accepts the Agreement Containing Consent Order To Cease And Desist; finds that the Commission has jurisdiction over the Respondent and over its acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

*It is ordered*, That the Respondent, Ben Hill Griffin, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with the sale of citrus fruit or fruit products to such buyer for his own account.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 17, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered*, That said decision be, and it hereby is, adopted as the decision of the Commission.

Complaint

58 F.T.C.

*It is further ordered,* That the respondent shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision.

---

IN THE MATTER OF

EGAN, FICKETT & CO., INC., ET AL.

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

*Docket 8005. Complaint, June 27, 1960—Decision, May 19, 1961*

Consent order requiring a wholesale distributor of fresh fruits and produce in Mountainside, N.J., and its subsidiary packer of citrus fruit in Ocoee, Fla., to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

COMPLAINT

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

PARAGRAPH 1. Egan, Fickett & Co., Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 1248 Route #22, Mountainside, New Jersey.

Respondent The Lake Fruit Co., Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its principal office and place of business located at Ocoee, Florida, with mailing address as Post Office Box 547, Ocoee, Florida.

PAR. 2. Respondent The Lake Fruit Co., Inc., is a wholly-owned subsidiary of respondent Egan, Fickett & Co., Inc. which controls and directs the activities and operations of respondent The Lake Fruit Co., Inc., including its sales and distribution policies. Respondent Egan, Fickett & Co., Inc., the parent corporation, is engaged in business primarily as a wholesale distributor of fresh fruits

and produce and is also, through its subsidiary, The Lake Fruit Co., Inc., engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter referred to as citrus fruit or fruit products. Both the parent corporation and the subsidiary are hereinafter sometimes referred to jointly as respondents. The primary activities involved in this complaint are respondents' method of selling and distributing their citrus fruit and fruit products through the subsidiary corporation, The Lake Fruit Co., Inc.

PAR. 3. Respondents, both parent and subsidiary, are now and since April 1957 have been engaged in the business of packing, selling and distributing citrus fruit and fruit products. Respondents sell their citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales for them, respondents pay them for their services a brokerage or commission, usually at the rate of 10 cents per  $1\frac{3}{8}$  bushel box, or equivalent. Respondents' annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 4. In the course and conduct of their business over the past several years, respondents have sold and distributed and are now selling and distributing their citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent The Lake Fruit Co., Inc. is located. Respondents transport, or cause such citrus fruit when sold, to be transported from their place of business or packing plant in the State of Florida, or from other places within the State, to such buyers or to the buyers' customers located in various other states of the United States. Thus there has been, at all times mentioned herein, a continuous course of trade in commerce in such citrus fruit across state lines between said respondents and the respective buyers of such fruit.

PAR. 5. In the course and conduct of their business as aforesaid, respondents have been and are now making substantial sales of citrus fruit to some, but not all, of their brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondents paid, granted or allowed, and are now paying, granting or allowing to these brokers and other direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 6. The acts and practices of respondents, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles* and *Mr. Ernest G. Barnes* for the Commission.  
*Gurney, McDonald & Handley*, of Orlando, Fla., by *Mr. J. Thomas Gurney*, for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with violation of Section 2(c) of the Clayton Act, as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondents and their counsel and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and of the proposed order to cease and desist. The word "agreement" as used hereinafter will include the stipulation.

The agreement provides, among other things, that respondents admit all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Egan, Fickett & Co., Inc., is a Delaware corporation with its office and principal place of business located at 1248 Route No. 22, Mountainside, New Jersey.

902

## Decision

Respondent The Lake Fruit Co., Inc., is a Florida corporation with its office and principal place of business located at Ocoee, Florida, and with mailing address as Post Office Box 547, Ocoee, Florida.

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

## ORDER

*It is ordered,* That the respondents Egan, Fickett & Co., Inc., a corporation, and The Lake Fruit Co., Inc., a corporation, and their officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having considered the hearing examiner's initial decision, filed February 20, 1961, accepting an agreement containing a consent order theretofore executed by the respondents and counsel in support of the complaint; and

It appearing that through inadvertence the word "acting" in the second line of the order to cease and desist contained in the consent agreement has been misspelled in the initial decision and should be corrected:

*It is ordered,* That the initial decision be, and it hereby is, amended by substituting the word "acting" for the seventh word in the second line of the order to cease and desist.

*It is further ordered,* That the initial decision, as so amended, shall, on the 19th day of May, 1961, become the decision of the Commission.

*It is further ordered,* That the respondents 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 the order contained in the aforesaid initial decision, as amended.

Complaint

58 F.T.C.

IN THE MATTER OF

SMITH ENTERPRISES INCORPORATED ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF  
SEC. 2(c) OF THE CLAYTON ACT*Docket 8006. Complaint, June 27, 1960—Decision, May 19, 1961*

Consent order requiring parent and subsidiary corporations in Vero Beach, Fla., packers of citrus fruit, to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

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

PARAGRAPH 1. Respondent Smith Enterprises Incorporated is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Vero Beach, Florida, with mailing address as Post Office Box 2226, Vero Beach, Florida.

Respondent Magic River Associates is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Vero Beach, Florida, with mailing address as Post Office Box 2226, Vero Beach, Florida.

PAR. 2. Respondent Magic River Associates is a wholly-owned subsidiary of respondent Smith Enterprises Incorporated which controls and directs the activities and operations of respondent Magic River Associates, including its sales and distribution policies. The parent corporation and the subsidiary are hereinafter sometimes referred to jointly as respondents. Respondents are now, and for the past several years have been, engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter sometimes referred to as citrus fruit or fruit products. Respondents sell and distribute their citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales, respondents pay them for their services a brokerage or commission, usually at the rate of 10 cents per 1 $\frac{3}{4}$  bushel box,

or equivalent. Respondents' annual volume of business in the sale and distribution of citrus fruit and fruit products is substantial.

PAR. 3. In the course and conduct of their business over the past several years, respondents have sold and distributed, and are now selling and distributing, their citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several States of the United States other than the State of Florida in which respondents are located. Respondents transport or cause such citrus fruit, when sold, to be transported from their places of business or packing plant in the State of Florida, or from other places within the State, to such buyers or to the buyers' customers located in various other States of the United States. Thus, there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit across state lines between said respondents and the respective buyers of such fruit.

PAR. 4. In the course and conduct of their business as aforesaid, respondents have been, and are now, making substantial sales of citrus fruit to some, but not all, of their brokers and other direct buyers purchasing for their own account for resale, and on a large number of these sales respondents paid, granted, or allowed, and are now paying, granting or allowing to these brokers and direct buyers on their own purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondents, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles and Mr. Ernest G. Barnes* supporting the complaint.

Respondents, *pro se*.

#### INITIAL DECISION OF JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on June 27, 1960, charging them with having violated Section 2(c) of the Clayton Act, as amended. After being served with said complaint, respondents entered into an agreement, dated September 21, 1960, containing a consent order to cease and desist purporting to dispose of all of this proceeding as to all parties. Said agreement, which has been signed by respondents, and by counsel supporting the complaint, and approved by the Di-

rector and Associate Director of the Commission's Bureau of Litigation, has been submitted to the above-named hearing examiner for his consideration, in accordance with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

Respondents, pursuant to the aforesaid agreement, have admitted all the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said agreement further provides that respondents waive any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It has been agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing and that the complaint may be used in construing the terms of said order. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, and that said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing consent order, and it appearing that the order provided for in said agreement covers all the allegations of the complaint and provides for an appropriate disposition of this proceeding as to all parties, said agreement is hereby accepted and is ordered filed upon this decision's becoming the decision of the Commission pursuant to Sections 3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and the hearing examiner, accordingly, makes the following jurisdictional findings and order:

1. Respondent Smith Enterprises Incorporated is a corporation existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Vero Beach, State of Florida. Respondent Magic River Associates is a corporation existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Vero Beach, State of Florida.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the provisions of the Clayton Act.

906

Complaint

## ORDER

*It is ordered*, That respondents Smith Enterprises Incorporated, a corporation, and Magic River Associates, a corporation, and their officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting, or allowing, directly or indirectly, to any buyer, or to anyone acting for or in behalf of or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 19th day of May 1961, become the decision of the Commission; and, accordingly:

*It is 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 the order to cease and desist.

## IN THE MATTER OF

SOUTH LAKE APOPKA CITRUS GROWERS  
ASSOCIATIONCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF  
SEC. 2(c) OF THE CLAYTON ACT

*Docket 8007. Complaint, June 27, 1960—Decision, May 19, 1961*

Consent order requiring an Oakland, Fla., citrus fruit packer to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly described, has been and is now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended

## Complaint

58 F.T.C.

(U.S.C. Title 15, Section 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent South Lake Apopka Citrus Growers Association is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Oakland, Florida, with mailing address as Post Office Box 8, Oakland, Florida.

PAR. 2. Respondent is now and since January 1, 1957 has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them for their services a brokerage or commission, usually at the rate of 8 to 10 cents per 1½ bushel box, or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports, or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within the State, to such buyers or to the buyers' customers located in various other states of the United States. Thus there has been, at all times mentioned herein, a continuous course of trade in commerce in such citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and other direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles and Mr. Ernest G. Barnes* for the Commission.  
*Johnson & Johnson*, of Tampa, Fla., by *Mr. Counts Johnson*, for respondent.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondent with violation of Section 2(c) of the Clayton Act, as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondent and its counsel and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and of the proposed order to cease and desist. The word "agreement" as used hereinafter will include the stipulation.

The agreement provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent South Lake Apopka Citrus Growers Association is a Florida corporation with its office and principal place of business located in Oakland, Florida, with mailing address as Post Office Box 8, Oakland, Florida.

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

Complaint

58 F.T.C.

## ORDER

*It is ordered,* That the respondent South Lake Apopka Citrus Growers Association, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting, or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 12, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered,* That said decision be, and it hereby is, adopted as the decision of the Commission.

*It is further ordered,* That the respondent shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision.

## IN THE MATTER OF

## SQUARE DEAL FRUIT CO.

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

*Docket 8008. Complaint, June 27, 1960—Decision, May 19, 1961*

Consent order requiring a packer of citrus fruit in Maitland, Fla., to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly described, has been and is now violating the pro-

visions of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Square Deal Fruit Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Maitland, Florida, with mailing address as Post Office Box 35, Maitland, Florida.

PAR. 2. Respondent is now, and for the past several years has been, engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter sometimes referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales for it, respondent pays them for their services, a brokerage or commission, usually at the rate of 10 cents per 1 $\frac{1}{2}$  bushel box, or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed, and is now selling and distributing, its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several States of the United States other than the State of Florida in which respondent is located. Respondent transports or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within the State, to such buyers or to the buyers' customers located in various other States of the United States. Thus, there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers and other direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted, or allowed, and is now paying, granting, or allowing to these brokers and direct buyers on their own purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles and Mr. Ernest G. Barnes* for the Commission.  
*Winderweedle, Haines, Hunter & Ward*, of Winter Park, Fla., by  
*Mr. Harold A. Ward, III*, for respondent.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondent with violation of Section 2(c) of the Clayton Act as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondent and its counsel and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and of the proposed order to cease and desist. The word "agreement" as used hereinafter will include the stipulation.

The agreement provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Square Deal Fruit Co. is a Florida corporation with its office and principal place of business located at Maitland, Florida, with mailing address as Post Office Box 35, Maitland, Florida.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent.

912

Complaint

## ORDER

*It is ordered,* That the respondent Square Deal Fruit Co., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 18, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered,* That said decision be, and it hereby is, adopted as the decision of the Commission.

*It is further ordered,* That the respondent shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision.

---

 IN THE MATTER OF

## CHASE &amp; COMPANY, INC.

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

*Docket 8009. Complaint, June 27, 1960—Decision, May 19, 1961*

Consent order requiring a Sanford, Fla., packer of citrus fruit and vegetables to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter

more particularly described, has been and is now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Chase & Company, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida with its office and principal place of business located at Sanford, Florida.

PAR. 2. Respondent is now, and for the past several years has been, engaged in the business of packing, selling and distributing citrus fruit such as oranges, tangerines and grapefruits, and fresh vegetables such as celery, pepper, and radishes, all of which are hereinafter sometimes referred to as citrus fruit and vegetables. Respondent sells citrus fruit and vegetables through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales of citrus fruit, respondent pays said brokers for their services a brokerage or commission, usually at the rate of 10 cents per  $1\frac{3}{5}$  bushel box, or equivalent. When brokers are utilized in making sales of vegetables, respondent pays said brokers for their services a brokerage or commission, usually at the rate of 8 cents or 10 cents per bushel except for radishes on which the rate is usually at the rate of 5 cents per carton. Respondent's annual volume of business in the sale of citrus fruit and vegetables is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing citrus fruit and vegetables in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports or causes such citrus fruit and vegetables, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within said State, to such buyers or to the buyers' customers located in various other states of the United States. In many instances respondent sells to brokers or buyers located in the State of Florida, but ships or causes the citrus fruit and vegetables to be shipped to the buyers' customers located outside of said state. Thus there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit and vegetables across state lines between said respondent and

the respective buyers of such citrus fruit and vegetables, or the buyers' customers.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit and vegetables to some, but not all, of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted, or allowed, and is paying, granting, or allowing to these brokers and direct buyers on their own purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The facts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles and Mr. Ernest G. Barnes* for the Commission.  
*Maguire, Voorhis & Wells*, of Orlando, Fla., by *Mr. M. W. Wells*, for respondent.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondent with violation of Section 2(c) of the Clayton Act, as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondent and its counsel and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and of the proposed order to cease and desist. The word "agreement" as used hereinafter will include the stipulation.

The agreement provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the

Decision

58 F.T.C.

manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Chase & Company, Inc., is a Florida corporation with its office and principal place of business located in Sanford, Florida.
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, Chase & Company, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting, or allowing, directly or indirectly, to any buyer, or to anyone acting for or in behalf of or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 18, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered.* That said decision be, and it hereby is, adopted as the decision of the Commission.

*It is further ordered.* That the respondent shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision.

919

Complaint

IN THE MATTER OF

HERMAN J. HEIDRICH ET AL. DOING BUSINESS AS  
HERMAN J. HEIDRICH & SONSCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF  
SEC. 2(c) OF THE CLAYTON ACT*Docket 8010. Complaint, June 27, 1960—Decision, May 19, 1961*

Consent order requiring Orlando, Fla., packers of citrus fruit to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

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

PARAGRAPH 1. Respondents Herman J. Heidrich, Francis X. Heidrich and Paul D. Heidrich are individuals and are copartners trading and doing business as Herman J. Heidrich & Sons, with principal office and place of business located at Orlando, Florida, with mailing address as Post Office Box 3788, Orlando, Florida.

PAR. 2. Respondents are now, and for the past several years have been, engaged in business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, and other fresh fruit products, all of which are hereinafter referred to as citrus fruit or fruit products. Respondents sell and distribute citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales, respondents pay said brokers for their services a brokerage or commission, usually at the rate of 10 cents per 1 $\frac{3}{4}$  bushel box, or equivalent. Respondents' annual volume of business in the sale of citrus fruit and other fresh fruit products is substantial.

PAR. 3. In the course and conduct of their business over the past several years, respondents have sold and distributed and are now selling and distributing citrus fruit and fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondents are located. Respondents

transport or cause such citrus fruit and fruit products, when sold, to be transported from their place of business or packing plant in the State of Florida, or from other places within the State, to such buyers or to the buyers' customers located in various other states of the United States. In many instances respondents sell to brokers or buyers located in the State of Florida, but ship or cause the citrus fruit to be shipped to the buyers' customers located outside of said state. Thus there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit across state lines between said respondents and the respective buyers of such fruit, or the buyers' customers.

PAR. 4. In the course and conduct of their business as aforesaid, respondents have been and are now making substantial sales of citrus fruit to some, but not all, of their brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondents paid, granted, or allowed, and are now paying, granting, or allowing to these brokers and direct buyers on their own purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondents, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles and Mr. Ernest G. Barnes for the Commission.  
Andrews & Smathers, of Orlando, Fla., for respondents.*

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with violation of Section 2(c) of the Clayton Act, as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondents and their counsel and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and of the proposed order to cease and desist. The word "agreement" as used hereinafter will include the stipulation.

The agreement provides, among other things, that respondents admit all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact and conclusions

919

Order

of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondents Herman J. Heidrich, Francis X. Heidrich, and Paul D. Heidrich are individuals and are copartners doing business as Herman J. Heidrich & Sons under the laws of the State of Florida, with their principal office and place of business located in Orlando, Florida, with mailing address as Post Office Box 3788, Orlando, Florida.

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

## ORDER

*It is ordered*, That the respondents Herman J. Heidrich, Francis X. Heidrich and Paul D. Heidrich, individually and as copartners doing business as Herman J. Heidrich & Sons, and their agents, representatives and employees, directly or through any corporate, partnership, sole proprietorship, or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

Complaint

58 F.T.C.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 24, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered,* That said decision be, and it hereby is, adopted as the decision of the Commission.

*It is further ordered,* That the respondents 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 the order to cease and desist contained in the aforesaid initial decision.

## IN THE MATTER OF

## HELLER BROTHERS PACKING COMPANY, INC.

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

*Docket 8011. Complaint, June 27, 1960—Decision, May 19, 1961*

Consent order requiring a Winter Garden, Fla., packer of citrus fruit to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

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

PARAGRAPH 1. Respondent Heller Brothers Packing Company, Inc., hereinafter sometimes referred to as respondent or respondent Heller, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Winter Garden, Florida.

PAR. 2. Respondent is now, and for the past several years has been, engaged in the business of packing, selling and distributing

citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. Where brokers are utilized in making sales for it, respondent pays them for their services a brokerage or commission, usually at the rate of 10 cents per  $1\frac{3}{8}$  bushel box, or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida or from other places within the State, to such buyers or to the buyers' customers located in various other states of the United States. In many instances respondent sells to brokers or buyers located in the State of Florida, but ships, or causes the citrus fruit to be shipped, to the buyers' customers located outside of said State. Thus there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit across state lines between said respondent and the respective buyers of such fruit, or the buyers' customers.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making numerous and substantial sales of citrus fruit to some, but not all, of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers and direct buyers on their own purchases, a commission, brokerage or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent in paying, granting or allowing a brokerage or commission, or an allowance or discount in lieu thereof, to buyers on their own purchases, as hereinabove alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles and Mr. Ernest G. Barnes* for the Commission.  
*Roth, Segal & Roth*, of Orlando, Fla., and *Johnson & Johnson*,  
of Tampa, Fla., for respondent.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondent with violation of Section 2(c) of the Clayton Act, as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondent and its counsel and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and of the proposed order to cease and desist. The word "agreement" as used hereinafter will include the stipulation.

The agreement provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Heller Brothers Packing Company, Inc., is a Florida corporation with its office and principal place of business located in Winter Garden, Florida.
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 Heller Brothers Packing Company, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 18, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered*, That said decision be, and it hereby is, adopted as the decision of the Commission.

*It is further ordered*, That the respondent shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision.

## IN THE MATTER OF

KILLARNEY FRUIT COMPANY, INC., AND  
NATHAN RUBIN DOING BUSINESS AS  
KILLARNEY FRUIT COMPANY

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

*Docket 8012. Complaint, June 27, 1960—Decision, May 19, 1961*

Consent order requiring packers of citrus fruit in Killarney, Fla., to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

The Federal Trade Commission, having reason to believe that the parties named in the caption hereof, and hereinafter more par-

ticularly described, have been and are now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Killarney Fruit Company, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Florida, with its principal office and place of business located at Killarney, Florida. Respondent Killarney Fruit Company, Inc., is also a copartner, along with individual respondent Nathan Rubin, doing business as Killarney Fruit Company.

Respondent Nathan Rubin is an individual and is a copartner, along with respondent Killarney Fruit Company, Inc., doing business as Killarney Fruit Company under and by virtue of the laws of the State of Florida. All respondents named—corporate, individual, and partnership—are hereinafter sometimes referred to collectively as respondents.

PAR. 2. Respondents are now, and for the past several years have been, engaged primarily in the business of packing, selling, and distributing citrus fruit, such as oranges, tangerines, and grapefruit, as well as other fruit products, all of which are hereinafter sometimes referred to as citrus fruit. Respondents sell and distribute their citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales for respondents, the brokers are paid for their services, in connection therewith, a brokerage or commission, usually at the rate of 10 cents per 1 $\frac{3}{8}$  bushel box, or equivalent. Respondents' annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of their business for the past several years, but more particularly since October 1, 1957, to date, respondents have sold and distributed and are now selling and distributing citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondents are located.

PAR. 4. Respondents transport or cause such citrus fruit, when sold, to be transported from their place of business or packing plant in the State of Florida, or from other places within the state, to such buyers or to such buyers' customers located in various other states of the United States. In many instances, respondents make substantial sales to brokers or buyers located in the State of Florida, but ship or cause the citrus fruit to be shipped to the buyers'

customers located outside of said state. Thus, there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit across state lines between said respondents and the respective buyers of such fruit.

PAR. 5. In the course and conduct of their business, as aforesaid, for the past several years, and more particularly since October 1, 1957, respondents have been and are now making numerous and substantial sales of citrus fruit to some, but not all, of their brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondents paid, granted, or allowed, and are now paying, granting, or allowing, to these brokers and direct buyers on their own purchases a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 6. The acts and practices of respondents in paying, granting, or allowing a brokerage or commission, or an allowance or discount in lieu thereof, to buyers on purchases for their own account, as hereinabove alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles* and *Mr. Ernest G. Barnes* for the Commission.  
*Mr. Edward J. Hanlon*, of Winter Garden, Fla., for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with violation of Section 2(c) of the Clayton Act, as amended. An agreement for disposition of the proceeding by means of a consent order has now been executed by respondents and their counsel and counsel supporting the complaint and submitted to the hearing examiner for his consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear the intent of the complaint and of the proposed order to cease and desist. The word "agreement" as used hereinafter will include the stipulation.

The agreement provides, among other things, that respondents admit all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be

Order

58 F.T.C.

entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and the proposed order, and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Killarney Fruit Company, Inc. is a corporation and is also a copartner, along with the individual respondent Nathan Rubin, doing business as Killarney Fruit Company, existing and doing business under and by virtue of the laws of the State of Florida, with their principal office and place of business located in the City of Killarney, State of Florida.

Respondent Nathan Rubin is an individual and is a copartner along with Killarney Fruit Company, Inc. doing business as Killarney Fruit Company under and by virtue of the laws of the State of Florida, with his principal office and place of business located in the City of Killarney, State of Florida.

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

**ORDER**

*It is ordered,* That the respondents, Killarney Fruit Company, Inc., a corporation, and as a copartner along with Nathan Rubin, an individual, doing business as Killarney Fruit Company, and Nathan Rubin individually, and respondents' officers, agents, representatives, and employees, directly or through any corporate, partnership, or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting, or allowing, directly or indirectly, to any buyer, or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 18, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered*, That said decision be, and it hereby is, adopted as the decision of the Commission.

*It is further ordered*, That the respondents 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 the order to cease and desist contained in the aforesaid initial decision.

## IN THE MATTER OF

## LAKE HAMILTON COOPERATIVE, INC.

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

*Docket 8013. Complaint, June 27, 1960—Decision, May 19, 1961*

Consent order requiring a Lake Hamilton, Fla., packer of citrus fruit to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

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

PARAGRAPH 1. Respondent Lake Hamilton Cooperative, Inc., hereinafter sometimes referred to as respondent or respondent Hamilton, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Lake Hamilton, Florida.

PAR. 2. Respondent is now and for the past several years has been engaged in the business of packing, selling, and distributing citrus fruit, such as oranges, tangerines, and grapefruit, as well as other fruit products, all of which are hereinafter sometimes referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers, as well as direct, to customers located in many sections of the United States. When

brokers are utilized in making sales for it, the respondent pays them for their services a brokerage or commission, usually at the rate of 10 cents per  $1\frac{3}{5}$  bushel box. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing its citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within the state, to such buyers or to the buyers' customers located in various other states of the United States. In many instances respondent sells to brokers or buyers located in the State of Florida, but ships or causes the citrus fruit and fruit products to be shipped to the buyers' customers outside of said state. Thus, there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit across state lines between said respondent and the respective buyers of such fruit.

PAR. 4. In the course and conduct of its business as aforesaid for the past several years, but more particularly since January 1, 1959, respondent has been and is now making numerous and substantial sales of citrus fruit to some, but not all, of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted, or allowed, and is now paying, granting, or allowing, to these brokers and direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent in paying, granting, or allowing a brokerage or commission, or a discount or an allowance in lieu thereof, to buyers on purchases for their own account, as hereinabove alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles and Mr. Ernest G. Barnes* for the Commission.  
*Smith & Petteway*, by *Mr. Gordon Petteway*, of Lakeland, Fla., for respondent.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on June 27, 1960, charging Respondent with violation of §2(c) of the Clayton Act, as amended,

by paying, granting, or allowing commission, brokerage, compensation, or an allowance or discount in lieu thereof, to certain of its brokers and direct buyers, on purchases for their own account for resale.

Thereafter, on January 4, 1961, Respondent, its counsel, and counsel supporting the complaint herein entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Director and Associate Director of the Commission's Bureau of Litigation, and thereafter, on January 9, 1961, submitted to the Hearing Examiner for consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear beyond any possible doubt the intent of the complaint and of the proposed order to cease and desist.

The agreement identifies Respondent Lake Hamilton Cooperative, Inc. as a Florida corporation, with its office and principal place of business located in Lake Hamilton, Florida.

Respondent admits all the jurisdictional facts alleged in the complaint, and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondent waives any further procedure before the Hearing Examiner and the Commission; the making of findings of fact and conclusions of law; and all of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only and does not constitute an admission by Respondent that it has violated the law as alleged in the complaint.

After consideration of the allegations of the complaint, and the provisions of the agreement and the proposed order, the Hearing Examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the Hearing Examiner accepts the Agreement Containing Consent Order To Cease And Desist;

## Complaint

58 F.T.C.

finds that the Commission has jurisdiction over the Respondent and over its acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

*It is ordered*, That the Respondent Lake Hamilton Cooperative, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with the sale of citrus fruit or fruit products to such buyer for his own account.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 17, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered*, That said decision be, and it hereby is, adopted as the decision of the Commission.

*It is further ordered*, That the respondent shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision.

---

 IN THE MATTER OF

## SNIVELY GROVES, INC.

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

*Docket 8014. Complaint, June 27, 1960—Decision, May 19, 1961*

Consent order requiring a packer of citrus fruit and other food products in Winter Haven, Fla., to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

The Federal Trade Commission, having reason to believe that the corporation named in the caption hereof, and hereinafter more

particularly described, has been and is now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Snively Groves, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Winter Haven, Florida.

PAR. 2. Respondent is now, and for the past several years has been, engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, citrus juices, citrus sections and other food products, all of which are hereinafter sometimes referred to as food products. Respondent sells and distributes citrus fruit and other food products through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales of citrus fruit, respondent pays said brokers for their services a brokerage or commission, usually at the rate of 10 cents per  $1\frac{3}{5}$  bushel box, or equivalent. When brokers are utilized in making sales of citrus juices and citrus sections, respondent pays said brokers for their services a brokerage or commission, usually at the rate of two, three or five percent of the net selling price. Respondent's annual volume of business in the sale of citrus fruit and other food products is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing citrus fruit, citrus juices, and food products in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports or causes such citrus fruit, citrus juices and food products, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within the State, to such buyers or to the buyers' customers located in various other states of the United States. In many instances respondents sell to brokers or buyers located in the State of Florida, but ship or cause the citrus fruit, citrus juices and food products to be shipped to the buyers' customers located outside of said state. Thus there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit, citrus juices, and food products across state lines between said respondent and the respective buyers of such food products, or the buyers' customers.

Decision

58 F.T.C.

PAR. 4. In the course and conduct of its business as aforesaid, respondent has been and is now making substantial sales of citrus fruit, citrus juices, and other products to some, but not all, of its brokers and direct buyers purchasing for its own account for resale. and on a large number of these sales respondent paid, granted, or allowed, and is now paying, granting, or allowing to these brokers and direct buyers on its own purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles* and *Mr. Ernest G. Barnes* for the Commission.  
*Mr. William A. McRae*, of Bartow, Fla., for respondent.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on June 27, 1960, charging Respondent with violation of §2(c) of the Clayton Act, as amended, by paying, granting, or allowing commission, brokerage, compensation, or an allowance or discount in lieu thereof, to certain of its brokers and direct buyers, on purchases for their own account for resale.

Thereafter, on January 4, 1961, Respondent, its counsel, and counsel supporting the complaint herein entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Associate Director of the Commission's Bureau of Litigation, and thereafter, on January 9, 1961, submitted to the Hearing Examiner for consideration. Attached to and made a part of the agreement is a stipulation entered into by the same parties for the purpose of making clear beyond any possible doubt the intent of the complaint and of the proposed order to cease and desist.

The agreement identifies Respondent Snively Groves, Inc. as a Florida corporation, with its office and principal place of business located in Winter Haven, Florida.

Respondent admits all the jurisdictional facts alleged in the complaint, and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondent waives any further procedure before the Hearing Examiner and the Commission; the making of findings of fact and conclusions of law; and all of the rights it may have to challenge

or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only and does not constitute an admission by Respondent that it has violated the law as alleged in the complaint.

After consideration of the allegations of the complaint, and the provisions of the agreement and the proposed order, the Hearing Examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the Hearing Examiner accepts the Agreement Containing Consent Order To Cease And Desist; finds that the Commission has jurisdiction over the Respondent and over its acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

*It is ordered*, That the Respondent Snively Groves, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with the sale of citrus fruit or fruit products to such buyer for his own account.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having now determined that the hearing examiner's initial decision, filed January 17, 1961, is adequate and appropriate to dispose of this proceeding:

*It is ordered*, That said decision be, and it hereby is, adopted as the decision of the Commission.

Complaint

58 F.T.C.

*It is further ordered,* That the respondent shall, within sixty (60) days after service upon it 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 the order to cease and desist contained in the aforesaid initial decision.

---

IN THE MATTER OF

G. LESTER IVEY ET AL. DOING BUSINESS AS  
OSCEOLA FRUIT DISTRIBUTORS

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

*Docket 8015. Complaint, June 27, 1960—Decision, May 19, 1961*

Consent order requiring packers of citrus fruit and citrus juices in Kissimmee, Fla., to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

COMPLAINT

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

PARAGRAPH 1. Respondents G. Lester Ivey, Hilda C. Ivey and Clarence L. Ivey are individuals and are copartners trading and doing business as Osceola Fruit Distributors, with office and principal place of business located at Kissimmee, Florida.

PAR. 2. Respondents are now, and for the past several years have been, engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, citrus juices and other food products, all of which are hereinafter sometimes referred to as food products. Respondents sell and distribute citrus fruit and other food products through brokers, as well as direct, to customers located in many sections of the United States. When brokers are utilized in making sales of citrus fruit, respondents pay said brokers for their services a brokerage or commission, usually pay the rate of 10 cents per 1 $\frac{3}{8}$  bushel box, or equivalent. When brokers are utilized in making sales of citrus juices, respondents pay said brokers for their services a brokerage or commission, usually at the rate of approximately three per cent of the net selling price. Re-

spondents' annual volume of business in the sale of citrus fruit, citrus juices and other food products is substantial.

PAR. 3. In the course and conduct of their business over the past several years, respondents have sold and distributed, and are now selling and distributing, citrus fruit, citrus juices, and food products in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several States of the United States other than the State of Florida in which respondents are located. Respondents transport or cause such citrus fruit, citrus juices and food products, when sold, to be transported from their place of business or packing plant in the State of Florida, or from other places within the State, to such buyers or to the buyers' customers located in various other States of the United States. In many instances respondents sell to brokers or buyers located in the State of Florida, but ship or cause the citrus fruit, citrus juices or food products to be shipped to the buyers' customers located outside of said State. Thus, there has been at all times mentioned herein a continuous course of trade in commerce in said citrus fruit, citrus juices, and food products across state lines between said respondents and the respective buyers of such food products, or the buyers' customers.

PAR. 4. In the course and conduct of their business as aforesaid, respondents have been and are now making substantial sales of citrus fruit and citrus juices to some, but not all, of their brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondents paid, granted, or allowed, and are now paying, granting, or allowing to these brokers and direct buyers on their own purchases, a commission, brokerage, or other compensation, or an allowance of discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondents, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Section 13).

*Mr. Cecil G. Miles* and *Mr. Ernest G. Barnes* for the Commission.  
No appearance for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter, issued June 27, 1960, charges the respondents with violation of Section 2(c) of the Clayton Act, as amended, in connection with the sale and distribution of their citrus fruit, citrus juices and other food products. An agreement has now been entered into by respondents and counsel supporting the com-

Order

58 F.T.C.

plaint which provides, among other things, that respondents admit all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified, or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondents G. Lester Ivey, Hilda C. Ivey and Clarence L. Ivey are individuals and copartners trading and doing business as Osceola Fruit Distributors with their office and principal place of business located at Kissimmee, Florida.

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

## ORDER

*It is ordered,* That respondents G. Lester Ivey, Hilda C. Ivey, and Clarence L. Ivey, individually and as copartners doing business as Osceola Fruit Distributors, and their agents, representatives, and employees, directly or through any corporate, partnership, sole proprietorship, or other device, in connection with the sale of citrus fruit, citrus juices, and other fruit products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting, or allowing, directly or indirectly, to any buyer, or to anyone acting for or in behalf of or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in

936

## Complaint

lieu thereof, upon or in connection with any sale of citrus fruit, citrus juice, or fruit products to such buyer for his own account.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 19th day of May, 1961, become the decision of the Commission; and, accordingly:

*It is ordered*, That 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 the order to cease and desist.

---

IN THE MATTER OF  
NEWBERN GROVES, INC.

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

*Docket 8016. Complaint, June 27, 1960—Decision, May 19, 1961*

Consent order requiring a Tampa, Fla., packer of citrus fruit to cease violating Sec. 2(c) of the Clayton Act by paying brokerage, or its equivalent, to customers making purchases for their own accounts for resale.

## COMPLAINT

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

PARAGRAPH 1. Respondent Newbern Groves, Inc., hereinafter sometimes referred to as respondent or respondent Newbern, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at Tampa, Florida, with mailing address as Post Office Box 9157, Tampa 4, Florida.

PAR. 2. Respondent is now, and for the past several years has been, engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, as well as other fruit products, all of which are hereinafter referred to as citrus fruit or fruit products. Respondent sells and distributes its citrus fruit through brokers, as well as direct, to customers located