

# FEDERAL TRADE COMMISSION DECISIONS

FINDINGS AND ORDERS, JANUARY 1, 1961, TO JUNE 30, 1961

IN THE MATTER OF

ELLIOTT W. SASSBENDER, SR., ET AL. DOING  
BUSINESS AS J. SEGARI & CO., ETC.

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

*Docket 8065. Complaint, Aug. 3, 1960—Decision, Jan. 6, 1961*

Consent order requiring members of a partnership in New Orleans, La., to cease violating Sec. 2(c) of the Clayton Act by accepting brokerage or a discount in lieu thereof—usually at the rate of 10 cents per 1-3/5 bushel box or equivalent, or a lower price reflecting said commission—on purchases of citrus fruit for their own account from Florida packers.

## 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. Respondents Elliott W. Sassbender, Sr., and Joseph O. Segari, are individuals and copartners doing business as J. Segari & Co., and Market Place Produce Company, under and by virtue of the laws of the State of Louisiana, with their offices and principal place of business located at 150 Poydras Street, New Orleans 12, Louisiana.

PAR. 2. Respondents, individually and as copartners doing business as J. Segari & Co., and Market Place Produce Company, hereinafter sometimes referred to jointly as respondents, are now, and for the past several years have been, engaged in business primarily as wholesale distributors and jobbers buying, selling and distributing

citrus fruit and produce, as well as other food products, all of which are hereinafter sometimes referred to as food products. Respondents purchase their food products from a large number of suppliers located in many sections of the United States, particularly in the State of Florida. The annual volume of business done by respondents in the purchase and sale of food products is substantial.

PAR. 3. In the course and conduct of their business for the past several years, but more particularly since January 1, 1959, respondents have purchased and distributed, and are now purchasing and distributing, food products in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, from suppliers or sellers located in several States of the United States other than the State of Louisiana, in which respondents are located. Respondents transport or cause such food products, when purchased, to be transported from the places of business or packing plants of their suppliers located in various other States of the United States to respondents who are located in the State of Louisiana, or to respondents, customers located in said State, or elsewhere. Thus, there has been at all times mentioned herein a continuous course of trade in commerce in the purchase of said food products across state lines between respondents and their respective suppliers of such products.

PAR. 4. In the course and conduct of their business for the past several years, but more particularly since January 1, 1959, respondents have been and are now making substantial purchases of food products for their own account for resale from some, but not all, of their suppliers, and on a large number of these purchases respondents have received and accepted, and are now receiving and accepting, from said suppliers a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

For example, respondents make substantial purchases of citrus fruit for their own account from a number of packers or suppliers located in the State of Florida, and receive on said purchases, a brokerage or commission, or a discount in lieu thereof, usually at the rate of 10 cents per 1-3/5 bushel box, or equivalent. In many instances respondents receive a lower price from the supplier which reflects said commission or brokerage.

PAR. 5. The acts and practices of respondents in receiving and accepting a brokerage or a commission, or an allowance or discount in lieu thereof, on their own purchases, 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).

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## Decision

*Cecil G. Miles, Esq.*, and *Ernest G. Barnes, Esq.*, supporting the complaint.

Respondents, for themselves.

## INITIAL DECISION BY LEON R. GROSS, HEARING EXAMINER

On August 3, 1960, the Federal Trade Commission issued a complaint against the above-named respondents, in which they were charged with violating § 2(c) of the Clayton Act, as amended (U.S.C. Title 15, §13), by, among other things, receiving and accepting a brokerage or commission or an allowance or discount in lieu thereof, on their own purchases of food products which are sold and transported in interstate commerce, as "commerce" is defined in the Federal Trade Commission and Clayton Acts. A true and correct copy of the complaint was served upon respondents and each and all of them, as required by law. Thereafter respondents agreed to dispose of this proceeding without a formal hearing, pursuant to the terms of an agreement dated November 8, 1960, containing consent order to cease and desist. The agreement was submitted to the undersigned hearing examiner on November 17, 1960, in accordance with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings. The agreement purports to dispose of this proceeding as to the respondents and each and all of them and contains the form of a consent cease and desist order which the parties have represented is dispositive of the issues involved in this proceeding. The agreement has been signed by the copartner respondents and by counsel supporting the complaint, and has been approved by the Associate Director and the Director of the Bureau of Litigation of the Federal Trade Commission. In said agreement respondents admit all of the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been made in accordance with such allegations. In the agreement the respondents waive: (a) any further procedural steps before the hearing examiner and the Commission; (b) the making of findings of fact or conclusions of law; and (c) all rights respondents may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

The parties further agree, in said agreement, 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 agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Federal Trade Commission; that the order to cease and desist entered in this

proceeding by the Commission may be entered without further notice to the respondents, and when so entered such order will have the same force and effect as if entered after a full hearing. Said order may be altered, modified or set aside in the manner provided for other orders, and the complaint may be used in construing the terms of the order.

The parties have covenanted that the said agreement is for settlement purposes only and does not constitute an admission by the 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 which is approved in and by said agreement disposes of all the issues presented by the complaint as to all of the parties involved, said agreement is hereby accepted and approved as complying with §§3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings. The undersigned hearing examiner, having considered the agreement and proposed order and being of the opinion that the acceptance thereof will be in the public interest, makes the following findings and issues the following order:

#### FINDINGS

1. The Federal Trade Commission has jurisdiction over the parties and the subject matter of this proceeding;

2. Respondents Elliott W. Sassbender, Sr., and Joseph O. Segari are copartners trading and doing business as J. Segari & Co. and Market Place Produce Company, with their office and principal place of business located at 150 Poydras Street, in the City of New Orleans, State of Louisiana.

3. Respondents are engaged in commerce as "commerce" is defined in the Federal Trade Commission Act.

4. The complaint filed herein states a cause of action against the respondents under §2(c) of the Clayton Act, as amended (U.S.C. Title 15, §13), and this proceeding is in the public interest. Now, therefore,

*It is ordered* That respondents Elliott W. Sassbender, Sr., and Joseph O. Segari, individually and as copartners doing business as J. Segari & Co. and Market Place Produce Company, and their agents, representatives, and employees, directly or through any corporate, partnership, sole proprietorship, or other device, in connection with the purchase of citrus fruit or other food products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

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## Complaint

Receiving or accepting, directly or indirectly, from any seller, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any purchase of citrus fruit or other food products for respondents' own account, or where respondents are the agents, representatives, or other intermediaries acting for or in behalf, or are subject to the direct or indirect control, of any buyer.

## 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 6th day of January, 1961, become the decision of the Commission; and, accordingly:

*It is ordered.* That respondents Elliott W. Sassbender, Sr., and Joseph O. Segari, individually and as copartners doing business as J. Segari & Co. and Market Place Produce Company, 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.

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 IN THE MATTER OF

## ROUGH WEAR CLOTHING COMPANY, INC. ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION AND THE WOOL PRODUCTS LABELING ACTS

*Docket 8109. Complaint, Aug. 30, 1960—Decision, Jan. 6, 1961*

Consent order requiring manufacturers in Middletown, Pa., to cease violating the Wool Products Labeling Act by labeling interlinings of men's jackets as "100% Reprocessed Wool" when they contained a substantial amount of non-woolen fibers, and by failing to label other wool products as required.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts the Federal Trade Commission, having reason to believe that Rough Wear Clothing Company, Inc., a corporation, and Meyer S. Jacobs and Edward Guiterman, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under said Wool Products Labeling Act, and it appearing to the Commission that a proceeding by

it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Rough Wear Clothing Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Individual respondent Meyer S. Jacobs is President and individual respondent Edward Guiterman is Treasurer of said corporate respondent. The individual respondents formulate, direct and control the acts, policies and practices of the corporate respondent, including the acts and practices hereinafter referred to. The address of the office and principal place of business of all respondents is Wilson Street, Middletown, Pennsylvania.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, and more especially since June 1, 1959, respondents have manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment and offered for sale in commerce as "commerce" is defined in the Wool Products Labeling Act of 1939 wool products as "wool products" are defined therein.

PAR. 3. Certain of said wool products were misbranded by respondents within the intent and meaning of Section 4(a)(1) of said Wool Products Labeling Act and the Rules and Regulations promulgated thereunder in that they were falsely and deceptively labeled or tagged with respect to the character and amount of the constituent fibers contained therein.

Among such misbranded wool products were men's jackets labeled or tagged by respondents as having interlinings consisting of "100% Reprocessed Wool", whereas, in truth and in fact, said interlinings contained a substantial quantity of non-woolen fibers.

PAR. 4. Certain of said wool products were further misbranded by respondents in that they were not stamped, tagged or labeled as required under the provisions of Section 4(a)(2) of the Wool Products Labeling Act and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

PAR. 5. The respondents in the course and conduct of their business, as aforesaid, were and are in competition, in commerce, with corporations, firms and individuals likewise engaged in the manufacture and sale of wool products similar to those sold by respondents.

PAR. 6. The acts and practices of the respondents as set forth in Paragraphs 3 and 4 above were, and are, in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition,

