

any sale of respondents' products to any such buyer for his own account.

2. Paying or contracting for the payment of anything of value to or for the benefit of any customer of respondents as compensation or in consideration for any services or facilities furnished by or through such customer, in connection with the offering for sale, sale or distribution of any of respondents' products, unless such payment or consideration is made available on proportionally equal terms to all other customers competing in the distribution of such products with the favored customer.

*It is further ordered,* That, with the exception of findings numbered 105 through 110 which have not been reviewed, the initial decision, as modified, be, and it hereby is, adopted as the decision of the Commission.

*It is further ordered,* That respondents Tillie Lewis Foods, Inc. (formerly Flotill Products, Inc.), Mrs. Meyer L. Lewis, Albert S. Heiser and Arthur H. Heiser 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 set forth herein.

Commissioner Elman's views are set forth in a separate opinion. Commissioner MacIntyre dissented in part. Commissioner Reilly did not participate for the reason he did not hear oral argument.

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IN THE MATTER OF

ALFONSO GIOIA & SONS, INC.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SECS. 2(a), 2(d),  
AND 2(e) OF THE CLAYTON ACT

*Docket 7790, Complaint Feb. 25, 1960—Decision, June 30, 1964*

Consent order requiring a macaroni manufacturer in Rochester, N.Y., to cease discriminating in price by such practices as giving to some customers substantial discounts on certain of its products and free goods, but not to other customers competing with them, in violation of Sec. 2(a) of the Clayton Act; making payments for advertising or other services furnished in connection with the sale of its products to some customers but not to their competitors, thus violating Sec. 2(d); and furnishing demonstrators to certain customers while not furnishing proportionally equal services to all other competing purchasers, in violation of Sec. 2(e).

Decision

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## ORDER REOPENING PROCEEDING

FEBRUARY 8, 1962

The Commission having issued on October 21, 1960 [57 F.T.C. 964], its decision adopting as its own the initial decision of the hearing examiner in this matter accepting an agreement containing a consent order to cease and desist theretofore executed by respondent and counsel in support of the complaint; and

The Commission, upon petition of respondent, having determined that the public interest requires that its aforesaid decision of October 21, 1960, be vacated and set aside, thereby reinstating the initial decision of the hearing examiner; and

The Commission being of the opinion that by reason of the filing of its aforesaid petition, respondent has waived notice and opportunity for hearing thereon:

*It is ordered*, That this proceeding be, and it hereby is, reopened.

*It is further ordered*, That the Commission's decision of October 21, 1960, adopting as its own the initial decision of the hearing examiner be, and it hereby is, vacated and set aside.

*It is further ordered*, That the date on which the initial decision of the hearing examiner, as reinstated by the order herein, would otherwise become the decision of the Commission be, and it hereby is, extended until further order of the Commission.

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

The Commission, for reason of the public interest cited in its order of February 8, 1962, having by said order reopened this proceeding; having thereby vacated and set aside its decision of October 21, 1960 [57 F.T.C. 964], which had adopted as its own the initial decision of the hearing examiner in this matter, and having thereby reinstated said initial decision; and also having thereby further ordered that the date on which the initial decision of the hearing examiner, as so reinstated, would otherwise become the decision of the Commission be extended until further order of the Commission; and

That matter now coming on to be heard by the Commission, *sua sponte*, and it appearing to the Commission that it would be in the public interest now to adopt as the Commission's own decision the initial decision of the hearing examiner, which initial decision accepted an agreement containing a consent order to cease and desist theretofore executed by respondent and counsel in support of the complaint; now, therefore,

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

*It is further ordered,* That 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.

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IN THE MATTER OF

## EKCO PRODUCTS COMPANY

ORDER, OPINIONS, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 7 OF  
THE CLAYTON ACT

*Docket 8122. Complaint, Sept. 26, 1960—Decision, June 30, 1964*

Order requiring the nation's largest producer of baking pans for commercial and industrial use, also a large producer of commercial meat-handling equipment, tinware and cutlery, with plants in many states and Canada and which, in the ten years 1950 to 1959, inclusive, had more than doubled the size of its operations largely as a result of acquiring the assets and stock of some two dozen operating concerns, to divest itself of assets acquired as a result of its acquisition in 1954 of the McClintock Manufacturing Co.—a relatively small concern which had a monopoly in the production of commercial meat-handling equipment—including (1) trade names and secrets, patents, customer lists, inventories, supply and requirements contracts, tools, patterns, etc., used in the manufacture or sale of commercial meat-handling equipment; (2) all other assets peculiar to such manufacture and sale but excepting assets not peculiar thereto; and (3) all other assets necessary to reconstitute McClintock as a going concern and effective competitor; and for one year to furnish such technical and marketing assistance as might be requested by McClintock; and for 20 years to refrain from acquiring stock or assets of any corporation manufacturing or selling commercial meat-handling equipment without prior approval of the Commission.

## COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly designated and described, has violated and is now violating the provisions of Section 7 of the Clayton Act (U.S.C., Title 15, Sec. 18) as amended and approved December 29, 1950, hereby issues its complaint, pursuant to Section 11 of the aforesaid Act (U.S.C. Title 15, Sec. 21) charging as follows:

PARAGRAPH 1. Respondent, Ekco Products Company (hereinafter referred to as "respondent") is a corporation organized and existing under the laws of the State of Delaware, with its office and principal

place of business located at 1949 North Cicero Avenue, Chicago, Illinois.

Respondent was originally established in 1888 and was subsequently incorporated in Illinois on October 6, 1903, as Edward Katzinger Company. The name Ekco Products Company was adopted in June 1944. The state of incorporation of respondent was changed from Illinois to Delaware and the assets and business of Ekco Products Company, an Illinois corporation, were merged into a new Delaware corporation of the same name effective as of April 29, 1960.

PAR. 2. The McClintock Manufacturing Company (hereinafter referred to as "McClintock") was, prior to June 30, 1954, a corporation organized and existing under the laws of the State of California, with its office and principal place of business located at 2700 Eastern Avenue, Los Angeles, California.

PAR. 3. The Blackman Stamping & Manufacturing Company (hereinafter referred to as "Blackman") is a corporation organized and existing under the laws of the State of California, with its office and principal place of business located at 2730 East 37th Street, Los Angeles, California.

PAR. 4. Respondent, directly and through various wholly owned subsidiary corporations, is engaged in the manufacture and sale of commercial food and meat-handling equipment and containers, kitchen tools and tinware, cutlery, commercial baking pans, ice cream scoops and paddles, woodenware, pressure cookers, stainless steel cooking utensils and flatware, aluminum-ware, enamelware, clothes dryers, bathroom hardware and accessories, sliding door hardware, and steel lockers and cabinets.

Respondent is the largest producer in the United States of baking pans for commercial and industrial use. Respondent is also one of the largest, if not the largest, producers in the United States of kitchen tools, tinware and cutlery, and is a leading and substantial producer in many of its other product fields.

Since its acquisition of McClintock in June 1954, respondent has been the largest and most dominant manufacturer and seller in the United States of commercial meat-handling equipment. (The term "commercial meat-handling equipment," as hereinafter used in this complaint, refers to aluminum platters, pans, and lugs (deep pans) and metal racks and carts for said platters, pans and lugs, which equipment is used by food supermarkets, chain grocery stores, butchers, meat markets, smaller grocery stores and others in handling, storing and transporting meat.) Also, since the McClintock acquisition, respondent has been a major producer, seller and lessor of rubber greens used

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for decorative purposes in meat markets and meat departments of other food establishments.

Respondent markets its products under the following trade names: Ekco, A. & J., Miracle, Flint, Ovenex, Sta-Brite, Tru-Spot, Katzinger, Ekcoware, Ekco Line, Minute Mop, Diamond, Shore Craft, Geneva Forge, Pakkawood, Mary Ann, Bocaroy, Autoyre, McClintock, Best, Kennatrack, Scottie and Worley.

The manufacturing operations of respondent are conducted through its main plant in Chicago, Illinois, and through three operating divisions: Ekco Massillon Division, with a plant at Massillon, Ohio; Sta-Brite Division, with a plant at Byesville, Ohio; and McClintock Manufacturing Co. Division, with a plant at Whittier, California. In addition, many of the products sold by respondent are manufactured by respondent or its subsidiaries at plants at the following locations:

Geneva, New York	Elkhart, Indiana
Lock Mills, Maine	Pico, California
Canton, Ohio	Holyoke, Massachusetts

Respondent engages in considerable manufacturing and marketing abroad of many household and commercial products similar to those produced and sold in the United States. Said foreign business is conducted through wholly owned or controlled subsidiaries located in Canada, England, Germany, Netherlands and Mexico.

In addition to the foregoing operations, respondent through wholly owned subsidiaries engages in glazing, coating, washing and conditioning of bakery pans for commercial bakeries through plants located at Chicago, Illinois; San Francisco and Los Angeles, California; Kansas City, Missouri; Seattle, Washington; Minneapolis, Minnesota; Dallas, Texas; New Orleans, Louisiana; Columbus, Ohio; Pittsburgh, Pennsylvania; Fairlawn, New Jersey; Baltimore, Maryland; Charlotte, North Carolina; Miami, Florida; Chattanooga, Tennessee; and in Canada at Toronto, Ontario and Vancouver, British Columbia.

PAR. 5. Respondent, directly and through various wholly owned or controlled subsidiaries, sells its products and services to some 10,000 customers throughout the United States. Its principal sales divisions are: The Housewares Division, which handles its household lines of kitchen tools and utensils, cutlery and related items; the Bakery Division, which sells its commercial and institutional bakery pans, equipment and accessories; and another division, which markets building hardware and commercial meat handling equipment and accessories.

Respondent's houseware products are distributed nationally through jobbers, chain grocery stores, food supermarkets, department stores, mail order and premium specialty houses, hardware stores and

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other retail establishments. Sales of commercial bakery pans, equipment and accessories are made directly to commercial and institutional bakeries as well as through bakery supply jobbers throughout the country. Commercial meat handling equipment, rubber greens and other meat market accessories, are sold by respondent throughout the United States directly to food supermarkets and chain grocery stores, and are also distributed through butcher and meat market supply jobbers.

Respondent sells the products and services described in Paragraphs Four and Five herein to purchasers thereof located in various States of the United States and in the District of Columbia. In the course and conduct of its business of producing and selling said products and services, respondent is engaged in commerce, as "commerce" is defined in the Clayton Act, as amended.

PAR. 6. During the ten year period between 1950 and 1959 inclusive, respondent has more than doubled the size of its operations. A comparison of selected financial data of respondent and its domestic and foreign subsidiaries for the period 1950 and 1959 shows the following:

	1950	1959	Percent of increase
Net sales.....	\$36,759,142	\$73,593,729	100.2
Net income before taxes.....	5,889,581	11,371,296	93.1
Total assets.....	27,605,190	63,395,251	129.6
Net worth.....	19,193,105	43,714,050	127.8

During the period between 1950 and 1959 respondent's substantial increase in size and growth and the diversification of its operations and product lines have been accelerated and achieved in large measure as a result of acquiring the assets and stock of numerous operating concerns. The acquisitions made during this period include the following:

Month and year	Company	Product
January 1951.....	Lusto Company, Inc.....	Copper cleaners.
November 1951.....	Minute Mop Company.....	Cellulose sponge mops.
May 1952.....	Republic Stamping & Enameling Co.....	Enameled kitchen utensils.
October 1953.....	Bocaroy Manufacturing Corp.....	Disappearing clothes lines.
Do.....	Continental Gem Company.....	Tea strainers.
February 1954.....	Autoyre Manufacturing Co.....	Bathroom accessories.
June 1954.....	McClintock Manufacturing Company.....	Commercial meat-handling equipment and rubber greens.
July 1954.....	Adams Plastics Co., Inc.....	Compressed wood and plastic cutlery and kitchen tool handles.
September 1954.....	Olson Panglaz Co.....	Silicone coating of commercial baking pans.
April 1955.....	Houseware-Plastics Division of Kilgore, Inc.	Plastic housewares.
August 1955.....	Shore Machine Corp.....	Ice cream scoops and paddles.
August 1956 (sold February, 1959).	Ruby Lighting Company.....	Fluorescent lighting fixtures.
September 1956.....	Kennatrack Corporation.....	Sliding door hardware and frames.
Do.....	Plasteel Division of P. R. Mallory Plastics, Inc.	Plastic bathroom accessories.
Do.....	Ekco-Alcoa Containers (50% interest).....	Aluminum foil and foil containers.
September 1956 (sold in 1958).	Consolidated Can Company (80% interest).	Cans, containers and packaging.
January 1957.....	Metaloid Company.....	Kitchen stove and table mats, step stools and serving carts.

