

Complaint

69 F.T.C.

It is further ordered, That the complaint against the respondent, Dorothy Nitsch, be, and it hereby is, dismissed.

It is further ordered, That the hearing examiner's initial decision of September 20, 1965, as modified herein and as modified and supplemented by the accompanying opinion, 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 set forth herein.

Commissioner Elman dissented and has filed a dissenting opinion.

IN THE MATTER OF

THE ATLANTIC COMPANY ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 8677. Complaint, Jan. 11, 1966—Decision, Mar. 31, 1966

Consent order requiring three operators of retail grocery stores in the Chattanooga, Tenn., area, to cease coercing or intimidating retail outlets to refuse to deal with members of a beer wholesalers organization.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the respondents named in the caption hereof have violated the provisions of said 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 as follows:

PARAGRAPH 1. Respondent The Atlantic Company, hereinafter sometimes referred to as Atlantic, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with principal business offices at 106 Washington Street, Viaduct, Atlanta, Georgia. Through its E-Z Food

Shops Division, respondent operates approximately 160 retail stores in an area encompassing the States of Mississippi, Alabama, Tennessee, Florida, Georgia, North Carolina, and South Carolina. Among the items sold by these stores are grocery products, beer, magazines and lawn and garden supplies. In 1963, respondent's net sales amounted to over \$23,000,000.

Respondent Harold M. Lasater is a resident of the State of Tennessee with a business address located at 5013 Rossville Boulevard, Chattanooga, Tennessee. Respondent Lasater is engaged in the retail grocery business. Utilizing the trade style of "Willie's Supermarket," respondent Lasater owns and operates three supermarkets within the city of Chattanooga, Tennessee, and surrounding area thereof. The combined annual net sales of these stores exceed \$2,500,000.

Respondent A. Clyde Pruett is a resident of the State of Tennessee with a business address located at 5738 Ringgold Road, Chattanooga, Tennessee. Respondent Pruett is engaged in the retail grocery business. Through various corporate and other business devices, and under the trade style "Pruett's Food Town," respondent owns and operates five supermarkets in the city of Chattanooga and surrounding area thereof. The combined annual net sales of these retail outlets exceed \$1,000,000.

PAR. 2. In the course and conduct of its business, respondent Atlantic, from its corporate headquarters in Atlanta, Georgia, purchases food, beverage and other products manufactured in various States of the United States and causes said products to be shipped across State borders and sold through its retail outlets located in the States mentioned in Paragraph One. For the past several years, and at all times mentioned herein, respondent has been, and is now, engaged in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. Respondents Lasater and Pruett, individually or through various corporate and other business devices, purchase food, beverage and other products that are manufactured in various States of the United States and cause said products to be shipped across State borders to their businesses located in the State of Tennessee. For the past several years, and at all times mentioned herein, said respondents have been, and are now, engaged in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Since April of 1964, respondents Atlantic, Lasater and Pruett have been members of an unincorporated group called the

Chattanooga Beer Retailers Association. The members of this association are in competition with each other in the retail sale of beer, except insofar as such competition has been lessened and restrained by the practices alleged herein.

PAR. 5. Chattanooga Beer Wholesalers Association is an unincorporated association composed of the six largest beer distributors in Hamilton County, Tennessee. Members of this association purchase their beer from manufacturers located in various States of the United States and sell it on both the wholesale and retail level to customers in Chattanooga, Tennessee, and surrounding areas. In reference to retail sales, members of the Chattanooga Beer Wholesalers Association are in competition with the retail businesses operated by respondents herein and other members of the Chattanooga Beer Retailers Association, except insofar as such competition has been lessened and restrained by the practices alleged herein.

PAR. 6. In the course of their aforescribed business in commerce, respondents Atlantic, Lasater and Pruett, acting between and among themselves, and with other members of the Chattanooga Beer Retailers Association, during the period from April of 1964 through September of the same year, entered into an understanding, agreement, combination and conspiracy to establish, and did establish, place into effect and carry out a planned common course of action to adopt and adhere to certain practices and policies for the purpose of or with the effect of hindering, lessening, restraining and eliminating competition in the sale and distribution of beer between respondents and members of the Chattanooga Beer Wholesalers Association in Chattanooga, Tennessee and surrounding areas.

Pursuant to and in furtherance of said understanding, agreement, combination, conspiracy and planned course of action, respondents Atlantic, Lasater and Pruett, together with certain members of the Chattanooga Beer Retailers Association, concertedly caused, or attempted to cause, a reduction or complete elimination of purchases from members of the Chattanooga Beer Wholesalers Association, and attempted to induce and did induce other retailers, some not members of the Chattanooga Beer Retailers Association, to refuse dealings with members of the Chattanooga Beer Wholesalers Association.

PAR. 7. The acts and practices of the respondents, as herein alleged, have had and do have the effect of hindering, lessening, restricting, restraining and eliminating competition among the

respondents and others in the sale and distribution of beer; are all to the prejudice of the public; and constitute unfair methods of competition and unfair acts and practices in commerce within the intent and meaning of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having issued its complaint on January 11, 1966, charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with a copy of that complaint; and

The Commission having duly determined upon motion certified to the Commission that, in the circumstances presented, the public interest would be served by waiver here of the provision of Section 2.4(d) of its Rules that the consent order procedure shall not be available after issuance of complaint; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission having considered the aforesaid agreement and having determined that it provides an adequate basis for appropriate disposition of this proceeding, the agreement is hereby accepted, the following jurisdictional findings are made, and the following order is entered:

1. Respondent The Atlantic Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with principal business offices at 106 Washington Street, Viaduct, Atlanta, Georgia.

Respondent Harold M. Lasater is a resident of the State of Tennessee and his address is 5013 Rossville Boulevard, Chattanooga, Tennessee.

Respondent A. Clyde Pruett is a resident of the State of Tennessee and his address is 5738 Ringgold Road, Chattanooga, Tennessee.

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

ORDER

It is ordered, That respondent The Atlantic Company, a corporation, its officers, representatives, agents, employees, successors and assigns, and respondents Harold M. Lasater and A. Clyde Pruett, individuals, their agents, representatives and employees, directly or through any corporate or other device, in connection with the purchase or sale in commerce, as "commerce" is defined in the Federal Trade Commission Act, of food, beverage and other products customarily sold through retail grocery channels, do forthwith cease and desist from entering into, cooperating in, carrying out or continuing any planned common course of action, understanding, agreement or conspiracy, between or among any two or more of said respondents or among or between any one or more of said respondents and others not parties hereto, to do or perform any of the following acts and practices:

1. Coerce or intimidate in any manner or by any means, including boycott or threat of boycott, any manufacturer, wholesaler, distributor or competitor to engage in, cease to engage in, or refrain from engaging in, any acts or practices relating to the conduct of the latter's business.
2. Refuse to purchase or threaten to refuse to purchase from any manufacturer, wholesaler or distributor.
3. Induce or attempt to induce any purchaser to refuse to deal with any manufacturer, wholesaler or distributor.

It is further 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 this order.

IN THE MATTER OF

TURK-TUCKER FURS, INC., ET AL.

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

Docket C-1053. Complaint, March 31, 1966—Decision, March 31, 1966

Consent order requiring a New York City furrier to cease falsely invoicing its fur products by omitting required information, improperly identifying fur-producing animals, and misrepresenting the country of origin of furs.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Turk-Tucker Furs, Inc., a corporation, and Philip Turk and Hyman Tucker, individually and as officers of the said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur 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 Turk-Tucker Furs, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondents Philip Turk and Hyman Tucker are officers of the corporate respondent and formulate, direct and control the acts, practices and policies of the said corporate respondent including those hereinafter set forth.

Respondents are manufacturers of fur products with their office and principal place of business located at 224 West 30th Street, city of New York, State of New York.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been and are now engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and have manufactured for sale, sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of furs which have been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said fur products were falsely and deceptively invoiced by the respondents in that they were not invoiced as required by Section 5(b) (1) of the Fur Products Labeling Act and the Rules and Regulations promulgated under such Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products covered by invoices which failed:

1. To show the true animal name of the fur used in the fur product.

2. To show the country of origin of imported furs used in fur products.

PAR. 4. Certain of said fur products were falsely and deceptively invoiced with respect to the name or designation of the animal or animals that produced the fur from which the said fur products had been manufactured, in violation of Section 5(b) (2) of the Fur Products Labeling Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products which were invoiced as "Sable" when, in fact, the fur contained in such products was "American Sable" or "American Marten" which are names used interchangeably to identify the same animal.

PAR. 5. Certain of said fur products were falsely and deceptively invoiced with respect to the name of the country of origin of imported furs used in such fur products, in violation of Section 5(b) (2) of the Fur Products Labeling Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products invoiced to show the name of the country of origin of furs contained in such fur products as "Russia" when the country of origin of such furs was, in fact, "Canada."

PAR. 6. The aforesaid acts and practices of respondents, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair and deceptive acts and practices and unfair methods of competition in commerce under the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act and the Fur Products Labeling Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing

