

## Decision

## IN THE MATTER OF

## LAKELAND-DEERING NURSERIES SALES ET AL.

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

*Docket 6666. Complaint, Oct. 26, 1956—Decision, June 25, 1957*

Consent order requiring mail order sellers of nursery products in New York City to cease making false representations in newspaper advertisements, circulars, etc., regarding the physical characteristics, color, season and amount of bloom, etc., of their "Lythrum Morden Gleam" and Shasta Daisy plants.

*Mr. Donald K. King and Mr. S. F. House for the Commission.*  
*Zalk, Hayashi & Karp, by Mr. Joseph Zalk, of New York, N. Y.,*  
for respondents.

## INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on October 26, 1956, issued and subsequently served its complaint in this proceeding against respondents Lakeland-Deering Nurseries Sales, a corporation existing and doing business under and by virtue of the laws of the State of New York, Henry L. Hoffman, Chester Carity, Lillian Zogheb and Allen Lekus, individually and as president, vice president, secretary, and treasurer, respectively, of the corporate respondent. The office and principal place of business of said respondents is at 16 West 61st Street, New York, New York.

Subsequently, a considerable amount of proof was taken both in support of and in defense to allegations of the complaint. Before completion thereof attorneys, on May 14, 1957, entered into an agreement providing for the entry of a consent order by the terms of which respondents admit all the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. By such agreement, respondents waive any further procedural steps before the hearing examiner and the Commission; waive the making of findings of fact and conclusions of law; and waive all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement. Such agreement further provides that it disposes of all of this proceeding as to all parties; that the record on which this initial decision and the decision of the Commission shall be

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based shall consist solely of the complaint and this agreement; that the latter shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; 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; and that the following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents, and, when so entered, it 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; and that the complaint may be used in construing the terms of the order.

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

1. Respondent Lakeland-Deering Nurseries Sales is a corporation existing and doing business under the laws of the State of New York, with its principal place of business located at 16 West 61st Street, New York, New York. Respondents Henry L. Hoffman, Chester Carity, Lillian Zogheb, and Allen Lekus are present, vice president, secretary, and treasurer, respectively, of said corporation, with their office and principal place of business located at the same address as the corporate respondent.

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 respondents, Lakeland-Deering Nurseries Sales, a corporation, and its officers; Henry L. Hoffman, Chester Carity, Lillian Zogheb, and Allen Lekus, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of the plants Lythrum Morden Gleam or Shasta Daisy (*Chrysanthemum Maximum*) in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, by description, depiction, failure to reveal, or otherwise, that the purchaser will receive more than one variety of the plant Shasta Daisy, unless such be the fact;
2. Using the term "*Chrysanthemum Maximum*" without contigu-

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ously, conspicuously, and coincidentally stating the common name for such plant, to wit, "Shasta Daisy";

3. Representing, directly or indirectly, by description, depiction, failure to reveal, or otherwise, the physical characteristics of the plant *Lythrum Morden Gleam* (including size at maturity, rate of growth, season of bloom, color or amount of bloom) unless such representations hold true in all areas where said plant is advertised and sold by respondents: *Provided, however*, That respondents may represent the physical characteristics of said plant as respondents have grown it.

## 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 25th day of June, 1957, 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.

Complaint

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IN THE MATTER OF  
INTERNATIONAL PAPER COMPANY

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

*Docket 6676. Complaint, Nov. 6, 1956—Decision, June 25, 1957*

Consent order requiring the world's largest integrated paper company—with productive capacity more than three times as great as its largest competitor—charged with violation of Sec. 7 of the Clayton Act by its acquisition of the second largest producer of lumber in the Pacific Northwest and the corporation holding a majority of its stock, to divest itself within ten years of the stock interest held by the acquired companies in a major competitor in the West Coast market; forbidding it to acquire any interest in any competing mill for the next ten years; and requiring it to sell to independent purchasers during the same period, 40% of the paper and paperboard production of its proposed Pacific Coast mill.

*Mr. L. E. Creel, Jr., and Mr. William R. MaHanna for the Commission.*

*Davis, Polk, Wardwell, Sunderland & Kiendl, by Mr. Ralph M. Carson and Mr. George A. Brownell, of New York, N. Y., and Howrey and Simon, by Mr. Edward F. Howrey and Mr. Joseph B. Kennedy, Jr., of Washington, D. C., for respondent.*

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 (15 U.S.C. Title 15, Sec. 18), as amended and approved December 29, 1950, hereby issues its complaint, charging as follows:

PARAGRAPH 1. Respondent International Paper Company is a corporation organized in 1941 and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 220 East 42nd Street, New York, New York.

The present company was formed by the consolidation of 18 paper companies located throughout New England and Northern New York in 1898. It was then called the International Paper & Power Company. In 1941 the International Paper & Power Company consolidated and changed its name to International Paper Company (hereinafter called International). A substantial part of International's production facilities were obtained through acquisition of other companies.