

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

FRANKLIN SHOCKEY COMPANY ET AL.

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

Docket 7380. Complaint, Jan. 29, 1959—Decision, Sept. 15, 1959

Consent order requiring furniture manufacturers in Lexington, N.C., to cease advertising falsely as "White Mahogany" and "Solid Mahogany"—in trade magazines, and in brochures and photographic albums distributed to dealers, and also on attached tags—furniture made of a Philippine wood of a different genus, unrelated botanically to true mahogany.

Mr. Kent P. Kratz for the Commission.

Mr. Henry W. Sweeney, of New York, N.Y., for respondents.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

On January 29, 1959, the Federal Trade Commission issued its complaint against the above-named respondents charging them with violating the provisions of the Federal Trade Commission Act in connection with the advertising and sale of furniture involving the use of the word "Mahogany." On July 17, 1959, the respondents and their attorney and counsel supporting the complaint entered into an agreement containing a consent order to cease and desist in accordance with Section 3.25(a) of the Rules of Practice and Procedure of the Commission.

Under the foregoing agreement, the respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and shall have the same force and effect as if entered after a full hearing. The agreement includes a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith; and recites that the said agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, and that it 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. The hearing examiner finds that the con-

Order

56 F.T.C.

tent of the said agreement meets all the requirements of Section 3.25(b) of the Rules of Practice.

This proceeding having now come on for final consideration by the hearing examiner on the complaint and the aforesaid agreement for consent order, and it appearing that said agreement provides for an appropriate disposition of this proceeding as to all parties, the aforesaid agreement is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Section 3.21 of the Rules of Practice; and in consonance with the terms of said agreement, the hearing examiner makes the following jurisdictional findings and order:

1. Respondent Franklin Shockey Company is a corporation existing and doing business under and by virtue of the laws of the State of North Carolina, with its principal office and place of business located in the City of Lexington, State of North Carolina.

Individual respondent Franklin Shockey is President and principal stockholder of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent. His address is the same as that of the corporate respondent.

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 Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondents Franklin Shockey Company, a corporation, and its officers, and Franklin Shockey, individually and as an officer of said corporation, their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of furniture or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Mahogany" as the name or designation for any wood other than the genus *Swietenia*: provided, however, that nothing herein shall be construed as preventing the use of the name "Philippine Mahogany" as a name or designation for the Philippine woods, Tanguile, Red Lauan, White Lauan, Tiaong, Almon, Bagatikan and Mayapis.

2. Furnishing any means or instrumentality to others by and through which they may mislead the public as to the kind or nature of wood or other materials used in the manufacture of their products.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rule of Practice, the initial decision of the hearing examiner shall, on the 15th day of September, 1959, become the decision of the Commission; and, accordingly:

It is ordered. That the respondents herein shall, within sixty (60)