

BOOTH-KELLY LUMBER COMPANY ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 8
OF THE CLAYTON ACT

Docket 7333. Complaint, Dec. 15, 1958—Order, Nov. 10, 1959

Order dismissing—following sale by the officer concerned of all stock held by him and his family in one of respondent lumber companies and his resig-

Opinion

56 F.T.C.

nation as a director of the company—complaint charging an individual with serving as a director of two competing West Coast lumber companies, in violation of Sec. 8 of the Clayton Act.

Before *Mr. Earl J. Kolb*, hearing examiner.

Mr. Lynn C. Paulson for the Commission.

Harrington, Waer, Cary & Marten, of Grand Rapids, Mich., for respondents.

Hart, Rockwood, Davies, Biggs & Strayer, of Portland, Ore., also represented Booth-Kelly Lumber Co.

OPINION OF THE COMMISSION

By the Commission:

Complaint in this proceeding issued charging respondents with violation of Section 8 of the Clayton Act (15 U.S.C.A. 19), and the hearing examiner, after hearings in due course, on May 29, 1959, entered an initial decision containing a provisional order directing individual respondent John W. Blodgett, Jr., to cease and desist from serving as director of both corporate respondents at one and the same time and directing both corporate respondents to cease and desist from electing or permitting said individual respondent to be elected or allowed to serve in such dual capacity. Respondents thereafter perfected an appeal from the initial decision. While this appeal was pending before the Commission, counsel for respondents filed a request in the nature of a motion to dismiss the proceeding on the ground that, on July 22, 1959, as the result of the sale of all stock held by him and members of his family in Booth-Kelly Lumber Company, individual respondent John W. Blodgett, Jr., resigned as a director of the company. Counsel supporting the complaint filed answer to respondents' motion in which he states that he does not oppose dismissal, which answer was accompanied by the affidavit of the Secretary of corporate respondent Booth-Kelly Lumber Company evidencing the submittal to, and acceptance by, the Board of Directors of that company of the resignation of John W. Blodgett, Jr., as a director of Booth-Kelly.

The Commission is of the opinion, in the circumstances, that no further proceedings in this matter are warranted. It has concluded, therefore, that the motion of respondents' counsel to dismiss should be sustained and the complaint dismissed without prejudice to the right of the Commission to reopen the proceeding should future circumstances so warrant. An appropriate order will be issued.

FINAL ORDER

This matter having come on to be heard upon respondents' request in the nature of a motion to dismiss the complaint herein and the answer thereto filed by counsel supporting the complaint; and

The Commission, for the reasons stated in the accompanying opinion, having concluded that the complaint should be dismissed: