

ingly:

It is ordered, That respondent Coghlen Corp. (formerly Stein's Stores, Inc.) 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.

IN THE MATTER OF

VIRGINIA EXCELSIOR MILLS, INC., ET AL.

MODIFIED ORDER IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 6630. Order, May 6, 1960

Order modifying desist order of Oct. 25, 1957 (54 F.T.C. 455, 465), to carry out the direction of the Court of Appeals, Fourth Circuit, of June 4, 1958 (256 F. 2d 538, 6 S. & C.D. 428), to limit the prohibition against the maintenance of a common selling agent to its utilization in aid of the unlawful practices inhibited by preceding sections of the order.

Before *Mr. Abner E. Lipscomb*, hearing examiner.

Mr. Floyd O. Collins for the Commission.

Mason & Stehl, of Bowling Green, Va., and *Daniel & Smith*, of Washington, D.C., for respondent.

ORDER MODIFYING ORDER TO CEASE AND DESIST AND ORDER TO CEASE
AND DESIST AS MODIFIED

Respondents having filed in the United States Court of Appeals for the Fourth Circuit their petition for review of and to set aside or, in the alternative, to modify the order to cease and desist issued by the Commission on the 25th day of October, 1957; and, the Court having heard the cause on briefs and oral argument and having thereafter, on the 4th day of June, 1958, handed down its opinion, and on the same date entered its decree, in which it modified the aforesaid order by "limiting the prohibition against the maintenance

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of a common selling agent to its utilization in aid of a purpose which could not be lawfully accomplished under the order by a direct agreement among the participating producers" and, as thus modified, affirmed and enforced the said order; and,

The Commission being of the opinion that its said order to cease and desist issued on the 25th day of October, 1957, as aforesaid, should be modified so as to bring it into conformity with the decision of the United States Court of Appeals for the Fourth Circuit; it is therefore,

Ordered, That the said order to cease and desist be modified by striking therefrom paragraph numbered 1, renumbering the remaining numbered paragraphs and adding the following paragraph to be numbered 6:

6. Operating, maintaining or utilizing Respondent Virginia Excelsior Mills, Inc., or any other central agency, as an instrument or medium for promoting, aiding, or making more effective any cooperative or concerted efforts to suppress or eliminate competition by or through any of the means or methods set forth in the preceding paragraphs numbered 1 to 5, inclusive, of this order; and as thus modified to issue and serve upon Respondents the following modified order:

It is ordered, That respondents Virginia Excelsior Mills, Inc., a corporation, W. H. Baker, T. Frank Flippo, H. L. Taylor and F. C. Flippo, individuals and officers of Respondent Virginia Excelsior Mills, Inc., T. Frank Flippo, F. Carter Flippo and Arthur P. Flippo, individuals and copartners trading as T. F. Flippo & Sons, H. L. Taylor, H. Ashton Taylor, G. K. Coleman, Sr., and G. K. Coleman, Jr., individuals and copartners trading as Ruther Glen Excelsior Company, T. Nelson Haley and Jesse C. Haley, individuals and copartners trading as Haley Excelsior Company, W. H. Baker, an individual trading as Hallsboro Manufacturing Company, S. D. Quarles and J. R. Gilman, individuals and copartners trading as Penola Excelsior Company, C. J. Haley, an individual trading as Ashland Excelsior Company, H. L. Taylor and Thomas H. Chewning, individuals and copartners trading as Caroline Excelsior Company, and as Chilesburg Excelsior Company, Benjamin Jeter, an individual trading as Benjamin Jeter, S. D. Quarles Lumber Company, Inc., a corporation, C. T. Smith, an individual trading as C. T. Smith, Ray S. Campbell, Addie C. Doswell, Elliot Campbell, E. May Campbell, and Bessie S. Campbell, individuals and copartners trading and doing business as Milford Excelsior Company, and said respective Respondents' officers, agents, representatives and employees, in or in connection with the production, offer-

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ing for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of excelsior, do forthwith cease and desist from entering into, continuing, cooperating in, or carrying out any combination, agreement, understanding, or planned common course of action between any two or more of said respondents, or between or among any one or more of said respondents and others not parties hereto, to do or perform any of the following acts or practices:

1. Fixing the selling price of excelsior or maintaining any prices so fixed;
2. Fixing or in any wise regulating production quotas;
3. Restricting manufacturers in selling and offering excelsior for sale by
 - a. designating the party to whom they or either of them can sell;
 - b. designating the party to whom they or either of them can offer to sell;
 - c. designating the party to whom they or either of them can quote prices;
 - d. designating the prices which they or either of them can quote;or
 - e. imposing any other restriction, or enforcing any such restriction by the imposition of penalties, or otherwise;
4. Classifying excelsior for pricing purposes;
5. Designating conditions under which mill owners who own stock in respondent Virginia Excelsior Mills, Inc., may sell their mills or machines;
6. Operating, maintaining or utilizing respondent Virginia Excelsior Mills, Inc., or any other central agency, as an instrument or medium for promoting, aiding, or making more effective any cooperative or concerted efforts to suppress or eliminate competition by or through any of the means or methods set forth in the preceding paragraphs numbered 1 to 5, inclusive, of this order;

It is further ordered, That the complaint herein, insofar as it relates to respondents Thomas L. Blanton, Noah Markey, Catherine C. Wright and Dorothy E. Campbell, be, and the same hereby is, dismissed without prejudice to the right of the Commission to take such action in the future as the facts may then warrant.

It is further ordered, That respondents, Virginia Excelsior Mills, Inc., a corporation, W. H. Baker, T. Frank Flippo, H. L. Taylor and F. C. Flippo, individuals and officers of said corporation, F. Carter Flippo, Arthur P. Flippo, H. Ashton Taylor, G. K. Coleman, Sr., G. K. Coleman, Jr., T. Nelson Haley, Jesse C. Haley, S. D. Quarles, J. R. Gilman, C. J. Haley, Thomas H. Chewning, Benjamin Jeter,

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S. D. Quarles Lumber Company, Inc., a corporation, C. T. Smith,
Ray S. Campbell, Addie C. Duggan, Elliot Campbell, E. M. C.