

# FEDERAL TRADE COMMISSION DECISIONS

FINDINGS, OPINIONS AND ORDERS

IN THE MATTER OF

HALLMARK GROUP COMPANIES, INC., ET AL.

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

*Docket C-2517. Complaint, July 1, 1974—Decision, July 1, 1974*

Consent order requiring a Dallas, Tex., developer of mobile home parks and its wholly-owned subsidiary in Santa Clara, Calif., among other things to cease misrepresenting and failing to provide facilities and services they represented would be available at mobile home parks they have developed. Further, the order requires respondents to provide, within ninety (90) days of the effective date of this order, mobile home parks with all of the facilities and services which they represented would be available at said parks.

## *Appearances*

For the Commission; *Ralph E. Stone.*

For the respondents: *Pro se.*

## 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 Hallmark Group Companies, Inc. and Pacific Western Mobile Estates, Inc., corporations, hereinafter sometimes referred to as respondents, 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 in that respect as follows:

PARAGRAPH 1. Respondent Hallmark Group Companies, Inc., is a corporation organized, existing 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 208 Town North Plaza Building, 4230 LBJ Freeway, Dallas, Tex.

Respondent Pacific Western Mobile Estates, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business

located at 2075 De La Cruz Boulevard, Santa Clara, Calif. It is a wholly-owned subsidiary of respondent Hallmark Group Companies, Inc.

PAR. 2. Respondents are now, and for some time last past have been engaged in the development and operation of mobile home parks in the various States of the United States.

PAR. 3. In the course and conduct of respondents' aforesaid business, respondents have disseminated and have caused to be disseminated from their place of business located in Santa Clara, Calif. advertisements for said mobile home parks in newspapers and on radio broadcasts of interstate circulation for the purpose of inducing the lease of mobile home park spaces.

Through the aforementioned dissemination and transmission of said advertisements and the interstate nature of their business, respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in mobile home park development and operation in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Typical of such advertisements, disseminated as aforesaid, but not inclusive thereof, are the following: [see pp. 3-6 herein.]

PAR. 5. Through the use of said advertisements, and others similar thereto, not specifically set out herein, respondents have represented and are now representing, directly or by implication, that respondents' mobile home parks have available and fully operational certain facilities, *e.g.*, boat and camper storage, cable television, laundry facilities, car wash facilities, sauna, shuffleboard, multi-purpose court for basketball, tennis, volleyball and badminton.

PAR. 6. In truth and in fact each and every advertised facility is not available and fully operational at respondents' mobile home parks at the time such park is ready for occupancy.

Therefore, the representations as set forth in Paragraphs Four and Five were and are false, misleading and deceptive.

PAR. 7. Furthermore, in the course and conduct of their business, as aforesaid, respondents failed and continue to fail to provide said mobile home parks with the fully operational facilities they represented were available.

The failure of respondents to provide fully operational facilities for the benefit of persons who leased spaces in respondents' parks in reliance upon said representations set forth in Paragraphs Four and Five hereof, was and is unfair and deceptive.

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements, and representations has the tendency and capacity to mislead and deceive members of the purchasing public into the

# come live with us...

... We'd like to introduce you to the nicest part of mobile home living — Pacific Western Mobile Estates. Let's get together over a cup of coffee and sit around and relax. I know we can show you a whole new way of easy living — made up of people, recreation, and just plain fun.

... If you enjoy the sort of things we do... like swimming, sauna, billiards, tennis, shuffleboard, putting greens, indoor hydrotherapy pool, and lots of friendly clubhouse activities, you will like our park. It is real country club living at low prices.

... My name is Joe and this is my wife Mildred. They call us managers, but we feel more like neighbors. Come out today and join us.



**PACIFIC WESTERN  
MOBILE ESTATES/GILROY**

500 W. Tenth Street  
Gilroy, Calif. 95020  
408/842-8296



All our parks have friendly managers who'd enjoy meeting you.

- Alice and "Skrif" at Modesto
- Walt and Vivian at Lathrop
- Hap and Maurita at San Jose
- Darrell and Jane at Pismo Beach

And open later this year: Vallejo  Orange County  Visalia  Palm Springs  Medford, Oregon  Springfield, Oregon  Lincoln, Nebraska  Colorado Springs, Colorado



Write for free brochure to:  
Pacific Western Mobile Estates, Inc.  
2075 De La Cruz Blvd.  
Santa Clara, California 95050

Name of park(s) \_\_\_\_\_  
Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ Zip \_\_\_\_\_ State \_\_\_\_\_

Complaint

84 F.T.C.

## The Recreation Center



car wash / laundry / hobby room



exercise room



9-hole putting green



pool and sandbar



sauna

Live up to your expectations at Pacific Western Mobile Estates/Gilroy ... a recreational wonderland!

Enjoy the pride of home ownership with a country club lifestyle, but without the starchy formality and land-office prices of conventional country clubs.

Amble up the path past the bubbling fountain to the clubhouse ... a center hum-m-m-ing with fun things to do ... a wonderfully inviting extension of your own home.

Enriched with the warmth of Spanish architecture ... bursting with hospitality, the expansive clubhouse provides recreation and socializing throughout the year.

Join the fun—dances, live entertainment, weekend brunches, parties and other social gatherings are easily accommodated in the spacious community hall. A full size stage, modern kitchen and banquet facilities ease the preparation and enhance the enjoyment of such events. What a lively center of exciting activity!

Get cozy ... the flow of conversation warms during friendly fireside chats in the library lounge

... ideally a restful setting to curl up and read a book ... a gracious hideaway for relaxation or television viewing.

The benefits of a spa-like atmosphere are apparent. Nothing could be more soothing than a sauna! Be gently massaged in the indoor hydrotherapeutic pool.

The relaxing resort atmosphere goes on ... enjoy a game of billiards ... or nourish an individual health program in the fully equipped men's and women's exercise room.

And there's more playing around! Splash in the pool ... gently heated throughout the year and lighted for evening dips.

Summertime arrives and the aromatic scent of smoking barbecues prevails at Pacific Western/Gilroy. Families gather on the barbecue patio to cook their favorite California cuisine over glowing charcoals.

Come by today and let us show you our beautiful park. We have some friendly managers and a lot of wonderful neighbors anxious to meet you.

Pacific Western Mobile Estates/Gilroy  
500 West Tenth Street  
Gilroy, California 95020  
408-842-8296

# GILROY PARK

# The Community

Pacific Western/Gilroy is a well planned, self-contained community. Underground utilities; centrally located recreation and green areas; broad, well lit avenues with ideal circulation patterns; colorful, professionally maintained landscaping—all tastefully integrated into a beautiful, comprehensive design.

Always close at hand, the resident managers and their assistants are thoroughly trained and knowledgeable of mobile home park management. Their efficiency is matched only by their friendly, neighborly manner ... all to make your days carefree.

The security of the mobile home community is apparent ... from its walled perimeter to its street lights burning throughout the night. The management enjoys the confidence of residents and maintains a pleasant environment: no soliciting or door-to-door selling is permitted ... nor is the peaceful setting broken by noisy autos or motorcycles.

And there's more ... boat and camper storage, guest parking, underground utilities, cable television, accommodation for 12' 20' 24' 36' wide mobile homes, laundry facilities, car wash facilities, two-car parking per site.



social events



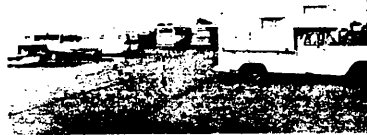
billiard room



barbecue patio



enclosed play area



boat and camper storage

community kitchen

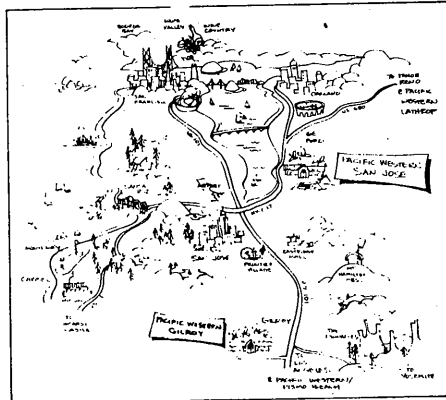


Outdoor living goes on. Play a round of golf on the 9-hole putting green. Sport activists will discover: shuffleboard, basketball, paddle-tennis, volleyball, badminton.

Especially for the children—busy bees, rabbits, porpoises, and hobby horses abound as part of a fascinating selection of play equipment safely enclosed in the separate tot play area.

Hobbies unlimited in the special hobby room! ... just another little but important spoiler at Pacific Western Gilroy.

Whether you are seeking an active, on-the-go life; pure relaxation; or a combination of both, you'll have your choice ... let us spoil you at Pacific Western Gilroy.



**RENTAL INFORMATION**

**MONTHLY RENTAL**

12' wide spaces	20' wide spaces	24'—36' wide spaces
\$65.00	\$70.00	\$75.00

Corner and Clubhouse lots \$5.00 extra per month

**MITTERED CHARGES**

- Gas and Electricity
- FREE SERVICES**
- Water
- Garbage Collection
- Clubhouse Facilities

**OPTIONAL MONTHLY**

**CHARGES**

- Pets ..... \$3.50
- Extra Person ..... \$5.00
- Storage ..... \$5.00
- Cable television available

**OCCUPANCY REQUIREMENTS**

- All coaches less than 3 years old
- Awnings required—length and width of patio and carport
- Metal skirting to match
- Architectural approval on coaches
- 25% landscaping in green starting in front of home

**FOR DETAILS, SEE REGULATIONS AVAILABLE IN OFFICE**

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## Decision and Order

erroneous and mistaken belief that said statements and representations were and are true and into the leasing of substantial numbers of respondents' mobile home park spaces by reason of said erroneous and mistaken belief.

PAR. 9. The acts and practices of respondents, including their continuing failure to provide fully operational facilities, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute unfair or deceptive acts or practices in commerce in violation of Section 5 of 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 San Francisco Regional Office 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 respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, and admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of 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 alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedures prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Hallmark Group Companies, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 208 Town North Plaza Building, 4230 LBJ Freeway, Dallas, Tex.

Respondent Pacific Western Mobile Estates, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 2075 De La Cruz Boulevard, Santa Clara, Calif. It is a wholly-owned subsidiary of respondent Hallmark Group Companies, Inc.

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 Hallmark Group Companies, Inc., Pacific Western Mobile Estates, Inc., corporations, their successors and assigns, and their officers, and respondents' agents, representatives, salesmen and employees, directly or through any corporation, subsidiary, division or other device, in connection with the development, operation and/or leasing of mobile home parks in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Misrepresenting, directly or by implication, orally or in writing, that any facility or service is available at any mobile home park.

2. Misrepresenting, directly or by implication, orally or in writing, that any facility or service will be available at any mobile home park.

*Provided, however*, That it shall not be deemed a violation of this paragraph if for reasons not within their control (*e.g.*, floods, other acts of God, strikes), such facility or service is not usable and available for its intended use at the time of said occupancy by the first lessee.

3. Failing to provide mobile home parks within ninety (90) days of the effective date of this order with all of the facilities and services which they represented would be available at said parks.

*It is further ordered*, That the respondents shall forthwith distribute a copy of this order to each of its operating divisions, and mobile home parks, and post in a prominent place for 30 days in each mobile home park presently owned and/or operated by respondents, their successors and assigns.

*It is further ordered*, That the respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment, incorporation, or sale resulting in the emergence of a successor firm, partnership, or



corporation, or any other change in the corporation which may affect compliance obligations arising out of this order.

*It is further ordered*, That respondents 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 MATTERS OF

INTERNATIONAL PAPER COMPANY - Docket C-2518  
VANCOUVER PLYWOOD CO., INC. - Docket C-2519

CONSENT ORDERS, ETC., IN REGARD TO ALLEGED VIOLATIONS OF THE  
FEDERAL TRADE COMMISSION ACT

*Complaint, July 1, 1974—Decisions, July 1, 1974*

Consent orders requiring New York City and Florien, La. manufacturers of softwood plywood, among other things to cease using a basing point system of pricing; requiring the two firms to give customers the option of paying f.o.b. prices on picked-up purchases for a 10-year period and disclose the amount of actual freight on customers' invoices covering shipments sold on a delivered price basis; and requiring that in quoting prices the companies base estimated weights upon actual experience determined by representative sampling or by other reasonable methods. The agreement also provides that the orders shall not become effective until other cases involving the softwood plywood industry are resolved; the two companies shall have the option to accept the same order which may be entered against the other five non-consenting firms.

*Appearances*

For the Commission: *L. Barry Costilo* and *Ira S. Nordlicht*.

For the respondents: *H. F. Baker, Howrey, Simon, Baker & Murchison*, Wash., D.C. for International Paper Company. *J. Randolph Wilson, Covington & Burling*, Wash., D.C. for Vancouver Plywood Co., Inc.

COMPLAINT

The Federal Trade Commission, having reason to believe that the above-named respondents have violated and are now violating Section 5 of the Federal Trade Commission Act (U.S.C. Title 14, Section 45), and believing that a proceeding by it in respect thereof is in the public interest, hereby issues its complaint charging as follows:

PARAGRAPH 1. Respondent International Paper Company is a corporation organized, existing and doing business under the laws of the

State of New York with its principal office and place of business at 220 E. 42nd Street, New York, N.Y. In 1971, International Paper Company had sales of \$1,969,550,000.

PAR. 2. Respondent Vancouver Plywood Co., Inc., is a corporation organized, existing and doing business under the laws of the State of Louisiana and is engaged in the sale of plywood in substantial amounts. In 1972, it had sales of \$40,000,000. It is managed and operated by Vanply, Inc., a wholly-owned subsidiary of Skelly Oil Company. Vancouver Plywood Co., Inc. has its principal office and place of business at Florien, La.

PAR. 3. Each of the respondents is substantially engaged in the manufacture, sale and distribution of softwood plywood. In the course and conduct of their business, each of the respondents is and has been for a substantial period of time engaged in selling such products to purchasers located in various States of the United States, and has caused such products to be transported from their facilities in various States of the United States to purchasers located in various other States of the United States. Each of the respondents is therefore engaged in "commerce," as "commerce" is defined in the Federal Trade Commission Act, and has been continuously so engaged for several years.

#### DEFINITIONS

PAR. 4. For the purpose of this complaint, the following definitions shall apply:

(a) "Softwood"—woods from coniferous trees such as pine, fir, spruce, and hemlock, which are generally light in texture, non-resistant and easily worked.

(b) "Softwood plywood" (sometimes referred to as "plywood" in this complaint)—material consisting of sheets of softwood glued or cemented together with the grains of adjacent layers arranged at right angles or at a wide angle usually being made of uniformly thin veneer sheets on either side of a thicker central layer.

(c) "Phantom freight"—the differential in amount between the actual freight costs incurred in shipping a product and higher freight charges used as the basis for billing the customer.

#### NATURE OF TRADE AND COMMERCE

PAR. 5. The manufacture and sale of softwood plywood is a substantial and expanding industry in the United States. In 1971, domestic shipments were \$1,246,911,000. Softwood plywood is a material which

enters heavily into the cost of construction of residential and commercial buildings. There has been a trend toward factory-built housing in which 29 percent-39 percent more plywood is used than in conventional housing. Large markets for softwood plywood include the major urban areas and suburban centers in the northeast and northcentral regions of the nation and certain urban areas in the south and the west.

PAR. 6. Historically, plywood was made from Douglas-fir trees and manufactured almost entirely in the coastal areas of the Pacific Northwest. In more recent years, the industry expanded to inland areas as types of softwood other than Douglas-fir began to be used in the manufacture of plywood. As a result of the development of new laminating techniques permitting utilization of the woods of southern pine, Georgia-Pacific established the first plywood mill in the south in For- dyce, Arkansas in 1963. Most of the large western plywood manufacturers thereafter established plants in the south. All of the respondents now have softwood plywood plants in the south.

PAR. 7. By the end of 1971, there were 51 softwood plywood plants located in the south. Since 1963, there has been a significant increase in the production of softwood plywood nationally, with most of the increase occurring in the south. By the end of 1971, production of plywood in the south reached approximately one quarter of total U.S. output.

PAR. 8. In 1969, the top eight softwood plywood producers accounted for approximately 64 percent of domestic plant shipments and the top four producers accounted for approximately 48 percent of shipments. The concentration level has increased since that time. The 1969 concentration level increased from 1963 when the top four and top eight softwood plywood producers had approximately 36 percent and 50 percent of domestic plant shipments, respectively.

PAR. 9. In 1971, the top eight softwood plywood producers accounted for approximately 74 percent of southern production and the top four producers accounted for approximately 61 percent of that production. A number of plants have recently been built in the south by the leading producers and this has resulted in an increase in concentration in the south. The respondents are among the leading producers in either the nation or in the south.

#### PACIFIC NORTHWEST SINGLE BASING POINT

PAR. 10. Before Georgia-Pacific opened its first softwood plywood plant in the South, respondents were charging softwood plywood delivered prices based upon rail freight rates computed from Portland, Oreg. Georgia-Pacific and each of the respondents which subsequently opened plants in the South have continued to charge delivered prices for

softwood plywood computed on the basis of rail freight from the Pacific Northwest, despite substantial shipments of softwood plywood from respondent's plants located in the south and other places geographically distant from the Pacific Northwest. As part of this basing point system, respondents have refused to permit customers the option of purchasing softwood plywood at the plant at f.o.b. prices which did not include freight from the Pacific Northwest, or to allow their customers to arrange for the mode of transportation cheapest to the customer.

PAR. 11. The parallel conduct of respondents and others in adhering to delivered prices based upon rail rates from the Pacific Northwest for shipments from mills located in other areas of the country has resulted in substantial margins of phantom freight accruing to respondents, particularly for shipments from plants in the south made to customers located in the southern, eastern, and northcentral areas of the country. This conduct enables those respondents which have plants in the west to ship plywood from their western plants to customers in the east without being undercut in price by southern mills which have a substantial geographic cost advantage. An example of the extent of phantom freight involved in the basing point system is as follows:

In Sept. 1972, a retail dealer in New Orleans, La., purchased softwood plywood produced at a plant located 60 miles away in Holden, La. The dealer paid a delivered price of \$4,289, which was computed on the basis of rail freight from Portland, Ore. Portland is 2500 miles away and the freight was \$764. The supplying plant in fact shipped the plywood to the purchaser by truck at a freight charge of \$80. Approximately 16 percent or \$684 of the purchaser's total delivered price consisted of phantom freight.

PAR. 12. The American Plywood Association, 1119 A Street, Tacoma, Wash., to which most of the respondents belong, has disseminated to the industry freight books specifying appropriate rail rates from the Pacific Northwest. This has facilitated the workings of the above-described basing point system.

PAR. 13. The respondents and the rest of the industry use uniform estimated weights to quote delivered prices to customers. Inaccuracies in a number of these weights further inflate the amount of phantom freight.

#### NATURE OF THE OFFENSE

PAR. 14. In the conduct of the aforesaid business, the respondents individually, and in combination with other companies, are now using and for a number of years have used and pursued parallel courses of

business behavior constituting unfair methods of competition and unfair and deceptive acts in commerce. Among the unfair methods of competition and the unfair and deceptive acts and practices which respondents individually, and in combination, have been and are now engaged are the following:

- (a) establishing and maintaining a system of delivered prices based on computation of rail freight from the Pacific Northwest for shipments made from mills located outside of that region;
- (b) establishing and maintaining a system of delivered prices based on computation of rail freight and applying it to shipments made by other and cheaper modes of transportation;
- (c) refusing to permit customers who purchase from southern plants the option of picking up purchases at the plant at true f.o.b. mill prices; and
- (d) using identical and inaccurate estimated weights as basis for quoting delivered prices.

#### EFFECTS

PAR. 15. The capacity, tendency and effects of the conduct of respondents hereinbefore alleged are, among others, to:

- (a) stabilize prices and provide certainty in the pricing of softwood plywood among competitors;
- (b) reduce and hinder actual and potential competition among respondents in the sale and distribution of softwood plywood;
- (c) create disincentives to the most efficient location of producing points;
- (d) create disincentives to customers to locate close to producing points;
- (e) discourage use of the cheapest and most efficient mode of transportation in given cases;
- (f) discriminate in prices between customers; and
- (g) mislead and deceive customers with respect to freight.

PAR. 16. The conduct of respondents hereinbefore alleged were and are unfair methods of competition, and unfair or deceptive acts in commerce in violation of Section 5 of the Federal Trade Commission Act (U.S.C. Title 15, Section 45), as amended.

INTERNATIONAL PAPER COMPANY—Docket 2518

#### DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereto with violation of

the Federal Trade Commission Act, and the respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

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

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

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

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

3. The attached order shall not become effective until thirty (30) days after the Commission enters final orders to cease and desist, resulting from litigation or consent, against Boise Cascade Corporation, Champion International Corporation, Georgia-Pacific Corporation, Weyerhaeuser Company and Willamette Industries, Inc. An order shall be considered final either by operation of law or by failure of any of the above companies to seek court review, or if court review is had as to said companies, at such time as court review is final as to all said companies. In the event the Commission obtains a final order to cease and desist, or if the Commission or any court enters an order to dismiss the complaint against any of the companies named above, International Paper Company shall for a period of thirty (30) days thereafter have the option to accept such order or dismissal in lieu of the order contained in this consent agreement.

## ORDER

## I

## Definitions

"Softwood plywood"—material consisting of sheets of softwood glued or cemented together with the grains of adjacent layers arranged at right angles or at a wide angle usually being made of uniformly thin veneer sheets on either side of a thicker central layer.

"Softwood lumber"—softwood cut at sawmills into various sizes and shapes from coniferous wood trees.

"Particleboard"—wood panel products made from wood particles mixed with a synthetic resin or other binder and formed by heat and pressure.

"Basing point system"—a method of pricing or price computation for products produced by respondent or on hand at respondent's mill or distribution point by which that respondent quotes a delivered price computed in whole or in part on a systematic basis upon freight charges from a location or locations which are geographically different from the actual point of shipment to the customer, or computed in whole or in part upon a mode of transportation which differs from the mode actually used.

"f.o.b. price"—a price set for purchases by the customer at the distribution point or originating mill which is not based in whole or in part on a basing point system of pricing, and which does not systematically vary according to the location of the customer. An f.o.b. price shall mean a price determined for, but not necessarily different for, each mill and distribution point operated by respondent. It shall not be set at an artificial level for the purpose of affecting purchases at the mill or distribution point at an f.o.b. price.

"Actual freight charge"—freight charges determined by distance, carrier rates, and respondent's estimated weights developed in accordance with the standards set forth in Paragraph III.

## II.

*It is ordered,* That respondent, its successors and assigns, and its officers, agents, representatives, and employees, directly or indirectly, through any corporate or other device in connection with the sale and distribution of particleboard and softwood lumber and softwood plywood in "commerce," as "commerce" is defined in the Federal Trade Commission Act, shall within sixty (60) days from the date of entry hereof:

1. Cease and desist from engaging individually, or in combination with competitors, in establishing, maintaining or using a basing point system of pricing.

2. For a period of ten (10) years, give customers the option of receiving a quotation and purchasing at f.o.b. prices in quantities of at least a truckload (approximately 40,000 lbs.) of the products covered by this order produced by respondent or on hand at respondent's mill or distribution point when the customer furnishes its own or arranges transportation compatible with respondent's facilities and complies with reasonable loading schedules and procedures of respondent. Additional cost attributable to customer pickup may be passed on to customers making pickup in the form of a surcharge above the f.o.b. price.

3. For a period of ten (10) years, state on invoices to customers for truckload or carload shipments by common or contract carrier sold on a delivered price basis the amount of actual freight charge to customers, the common or contract carrier rates from the place of shipment, the specified estimated weights if and when used, and the f.o.b. price.

### III.

*It is further ordered,* That respondent does within one hundred twenty (120) days cease and desist from adopting or maintaining estimated weights as a basis for calculating freight charges in quoting delivered prices on softwood plywood when such estimates are not based upon the experience of actual weights of softwood plywood produced by the respondent individually. Such experience shall be accumulated and updated by representative sampling or by other reasonable methods at least once a year for five (5) years.

### IV.

*It is further ordered,* That respondent shall cease and desist from directly or indirectly communicating, relaying or reporting to any manufacturer of softwood plywood, softwood lumber, or particleboard, information relating to prices, terms or conditions of sale (including transportation rates, charges or routing information) at which these products are sold or may be sold, except in connection with a bona fide sale to, or purchase from, such manufacturer or in connection with negotiations related thereto.

### V.

Nothing contained in this order shall be interpreted as prohibiting respondent, when acting individually, 1) from granting allowances to



meet lower prices of competitors, 2) from absorbing all or any part of actual freight charges on shipment to any geographic area, 3) from charging the same delivered price to all customers within the normal area for delivery by a distribution point or mill when delivered by respondent's vehicles, or 4) from making otherwise legal communications to governmental bodies and trade or news publications.

## VI.

*It is further ordered,* That respondent shall notify all persons having sales and policy responsibilities in its organization of the terms of the order and publish same in at least two major trade journals or periodicals twice annually for each of two years from the date of this order.

## VII.

*It is further ordered,* That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent which may affect compliance obligations arising out of the order, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries.

## VIII.

*It is further ordered,* That within sixty (60) days from the date of service of this order, and on a periodic basis thereafter, the respondent shall submit, in writing, to the Federal Trade Commission a report setting forth in detail the manner and form in which respondent is meeting its compliance obligations.

VANCOUVER PLYWOOD CO., INC.—Docket 2519

## DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereto with violation of the Federal Trade Commission Act, and the respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint,

