

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

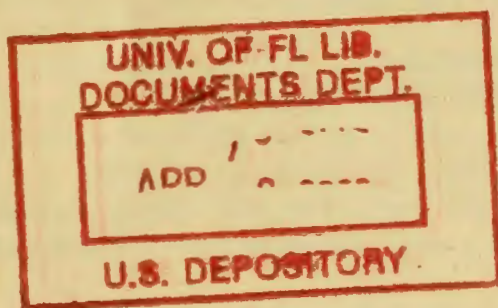
FOR THE

UPHOLSTERY SPRING AND

ACCESSORIES

MANUFACTURING INDUSTRY

AS APPROVED ON MARCH 10, 1934

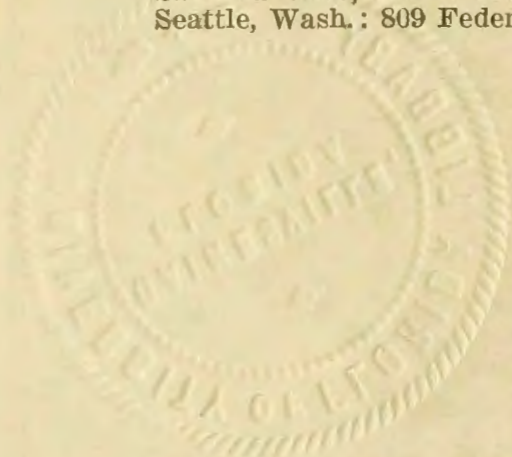


UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1934

This publication is for sale by the Superintendent of Documents, Government Printing Office, Washington, D.C., and by district offices of the Bureau of Foreign and Domestic Commerce.

DISTRICT OFFICES OF THE DEPARTMENT OF COMMERCE

Atlanta, Ga.: 504 Post Office Building.
Birmingham, Ala.: 257 Federal Building.
Boston, Mass.: 1801 Customhouse.
Buffalo, N.Y.: Chamber of Commerce Building.
Charleston, S.C.: Chamber of Commerce Building.
Chicago, Ill.: Suite 1706, 201 North Wells Street.
Cleveland, Ohio: Chamber of Commerce.
Dallas, Tex.: Chamber of Commerce Building.
Detroit, Mich.: 801 First National Bank Building.
Houston, Tex.: Chamber of Commerce Building.
Indianapolis, Ind.: Chamber of Commerce Building.
Jacksonville, Fla.: Chamber of Commerce Building.
Kansas City, Mo.: 1028 Baltimore Avenue.
Los Angeles, Calif.: 1163 South Broadway.
Louisville, Ky.: 408 Federal Building.
Memphis, Tenn.: 229 Federal Building.
Minneapolis, Minn.: 213 Federal Building.
New Orleans, La.: Room 225-A, Customhouse.
New York, N.Y.: 734 Customhouse.
Norfolk, Va.: 406 East Plume Street.
Philadelphia, Pa.: 422 Commercial Trust Building.
Pittsburgh, Pa.: Chamber of Commerce Building.
Portland, Oreg.: 215 New Post Office Building.
St. Louis, Mo.: 506 Olive Street.
San Francisco, Calif.: 310 Customhouse.
Seattle, Wash.: 809 Federal Office Building.



Approved Code No. 329

CODE OF FAIR COMPETITION
FOR THE
UPHOLSTERY SPRING AND ACCESSORIES
MANUFACTURING INDUSTRY

As Approved on March 10, 1934

ORDER

**APPROVING CODE OF FAIR COMPETITION FOR THE UPHOLSTERY SPRING
AND ACCESSORIES MANUFACTURING INDUSTRY**

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Upholstery Spring and Accessories Manufacturing Industry, and hearings having been duly held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and do hereby order that said Code of Fair Competition be and it is hereby approved; provided, however, that the provisions of Article X, Sections 1, 2 and 3, insofar as they prescribe a waiting period between the filing with the Code Authority (i. e. actual receipt by the Code Authority) and the effective date of revised price lists or revised terms and conditions of sale be and they are hereby stayed pending my further order.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

K. M. SIMPSON,
Division Administrator.

WASHINGTON, D.C.,
March 10, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Upholstery Spring and Accessories Manufacturing Industry in the United States as revised after the hearing conducted in Washington on December 18, 1933, in accordance with the provisions of the National Industrial Recovery Act.

LABOR PROVISIONS

Under this Code no employee shall work in excess of 40 hours in one week except during peak periods when a 48 hour week is permitted. However, such excess hours during peak periods may not exceed 32 hours in any 6 months period and may not be utilized in more than 6 of the 26 weeks in that period. There are certain exceptions to these provisions. First, any employee may be permitted to work 8 additional hours per week above those specified provided such additional hours shall be paid for at the rate of time and one-half and provided that no employee shall be permitted to work more than 48 hours in one week. Secondly, executive and supervisory employees who receive \$35.00 or more per week and outside sales employees are exempt from the above provisions. Thirdly, outside delivery men are permitted to work 48 hours and janitors, and watchmen are permitted to work 56 hours in one week. Finally, employees who act as factory clerks and who receive \$25.00 or more per week are permitted a tolerance of 10% upon the hours above specified. But the number of such factory clerks is limited to 5% of all employees.

The minimum wage is 35 cents per hour in the North and 32 cents per hour in the South for employees engaged in the processing of products. Learners may receive 80% of these minimums. However, learners may at no time exceed 5% of all employees and no employee may serve as a learner more than once in this industry. Clerical employees are to be paid not less than \$15.00 per week except that office boys and girls may receive 80% of the minimum. The total number of such employees is not to exceed 5%. Equitable adjustments of wages above the minimum is provided for in the Code.

ECONOMIC EFFECT OF THE CODE

Members of the Industry manufacture semi-finished producers goods, sold to other manufacturers for use in making mattresses, upholstered furniture of various types, and spring cushions in general. According to the Report of the Division of Planning and Research estimated factory employment is approximately 54% under that of 1929. The average hours worked per week in 1929 were 54 but employment has been extremely irregular in 1932 and 1933

resulting in lower average hours of work. However, the limitation upon hours contained in the Code should, on the basis of available statistics, increase employment within the Industry by at least 25%.

In addition to the re-employment which should, in this Industry, follow approval of the Code, the actual increase in purchasing power of the workers should be substantial. According to the Research and Planning Division, the average weekly wage in 1932 was \$8.05. On the basis of wage provisions in the Code the average minimum wage for both the North and South for a 40 hour week will be approximately \$13.80. The 1929 average weekly wage for the longer week was \$14.57. Members of the Industry have been desirous of improving labor conditions within the Industry and are now convinced that, through the labor and the fair practice provisions of the Code, they will accomplish their aim.

The Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceedings in this matter:

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said Industry normally employs not more than 50,000 employees; and is not classified by me as a major Industry.

(c) The Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant association is an industrial association truly representative of the aforesaid Industry; and that said association imposes no inequitable restrictions on admission to membership therein.

(d) The Code is not designed to and will not permit monopolies or monopolistic practices.

(e) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code.

I have, therefore, approved this Code.

Respectfully,

HUGH S. JOHNSON,
Administrator.

MARCH 10, 1934.

CODE OF FAIR COMPETITION FOR THE UPHOLSTERY SPRING AND ACCESSORIES MANUFACTURING INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, this Code is established as a Code of Fair Competition for the UPHOLSTERY SPRING AND ACCESSORIES MANUFACTURING INDUSTRY, and its provisions shall be the standards of fair competition for such Industry, and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

SECTION 1. The term "Upholstery Spring and Accessories Manufacturing Industry", hereinafter referred to as the "Industry", means the manufacture for sale of:

(a) Upholstery springs of all kinds, including, but not limited to, true upholstery springs, pillow springs, single cone springs, double cone springs, car-seat springs, ball bottom springs, top extension springs, high-low springs, and all other springs of similar construction and use;

(b) Assembled spring constructions of all kinds, including specifically, but not limited to, studio couch spring and frame constructions, bed-davenport spring and frame constructions, all-wire spring mattress inner units, all-wire spring cushion units, fabric-wire cushion and mattress inners;

(c) Studio couch and bed-davenport metal fixtures and parts;

(d) Upholstery accessories, including back straps, sure-stay straps, seat bars and sag seat construction; The manufacture of spring wire in coils and mechanical springs is not included in the above definition.

SECTION 2. The term "Products" as used herein means such products as are defined and set forth in Article II, Section 1 hereof.

SECTION 3. The term "Member of Industry" or "Member" means without limitation any individual, partnership, corporation, or any other form of enterprise engaged in the manufacture for sale of the Products of the Industry.

SECTION 4. The term "Association" means the Upholstery Spring and Accessories Manufacturers' Association, Inc., an Illinois corporation not for profit, having its principal offices at 77 West Washington Street, Chicago, Illinois.

SECTION 5. The term "Board" or "Board of Managers" means the Board of Managers of the Association.

SECTION 6. The term "Employee" includes any one engaged in the Industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation, except a Member of the Industry.

SECTION 7. The term "Employer" includes any one by whom any such employee is compensated or employed.

SECTION 8. The term "President", "Act", and "Administrator" mean respectively the President of the United States, Title I of the National Industrial Recovery Act, and the Administrator for National Industrial Recovery.

ARTICLE III—WAGES

SECTION 1. The minimum wage that shall be paid to any employee engaged in the manufacturing of products of the Industry, and any labor incident thereto, shall be as follows:

(a) No employee shall receive a lesser time or piece rate than is required to provide the same earnings for 40 hours of labor per week as was received for that class of work for a 48 hour week immediately prior to May 1, 1933, provided, however, that no employee shall receive less than a minimum of thirty-two cents per hour in the Southern Wage District, and thirty-five cents per hour in the Northern Wage District.

(b) The Southern Wage District is defined as comprising North Carolina, South Carolina, Florida, Georgia, Alabama, Tennessee, Mississippi, Arkansas, Louisiana, Oklahoma, Texas, Maryland, and Virginia, and the Northern Wage District is defined to include all other States in the United States proper, including the District of Columbia and Alaska.

SECTION 2. This Article establishes a minimum rate of pay regardless of whether an employee is compensated on a time-rate, piece work or other basis.

SECTION 3. Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

SECTION 4. Learners without previous experience may be employed at a minimum wage of 80% of the above requirements for a period of not more than ninety days; provided, however, that the number of such learners employed by a member of the industry shall not exceed 5% of the total number of all his employees at any one time; and provided further, that no employee may be permitted to serve in the industry more than once as a "learner" within the above provisions.

SECTION 5. A person whose earning capacity is limited because of age or physical or mental handicap may be employed on light work at a wage below the minimum established by this Code if the employer obtains from the State Authority designated by the United States Department of Labor a certificate authorizing his employment at such wages and for such hours as shall be stated in the certificate. Each employer shall file with the Code Authority a list of all such persons employed by him.

SECTION 6. On and after the effective date, the minimum wages which shall be paid by any employer to all other employees shall be not less than at the rate of \$15.00 per week. Office boys and girls of sixteen to and including eighteen years of age, may be paid at a rate of not less than 80% of the above minimum wages; but the total number of such employees shall not exceed 5% of the total

number of office employees, provided that the employment of at least two such employees by any employer shall be permissible.

SECTION 7. The hourly rates and salaries for all duties and occupations now paid at more than the minimum herein prescribed, but not including salaries of more than \$35.00 per week, shall be equitably adjusted by all Members of the industry who have not already done so, and in no case shall these rates be decreased. Reports concerning the Action taken, whether prior to or after the approval of this Code, shall be reported to the Code Authority not later than sixty (60) days after the effective date hereof, and by it reported to the Administrator.

ARTICLE IV—HOURS

SECTION 1. No employee shall be permitted to work in excess of 40 hours or six (6) days in any one week except as herein provided.

SECTION 2. Clerical employees shall not be permitted to work more than an average of 40 hours per week in any five week period.

SECTION 3. During any peak period in which a concentrated demand upon any division of any Member of the Industry shall place an unusual and temporary burden upon its facilities, factory employees of such division shall be allowed to work not more than 48 hours per week, all hours over 40 hours per week to be known as "excess" hours hereunder.

SECTION 4. The number of excess hours worked by factory employees in any six (6) months period may not exceed a total of 32 hours to be taken in any six (6) weeks during such six (6) months period and overtime need not be paid for such excess hours.

SECTION 5. Any factory employee may be permitted to work 8 additional hours in any one week beyond those specified in the two preceding paragraphs, provided such additional hours shall be paid for at the rate of time and one-half and provided that no factory employee shall be permitted to work more than 48 hours in any one week.

SECTION 6. No employee shall knowingly be permitted to work in the aggregate in excess of the above prescribed number of hours, irrespective of whether such employee be on the payroll of more than one employer.

SECTION 7. Nothing in the foregoing employment provisions shall apply to executive and supervisory employees who receive \$35.00 or more per week, nor to watchmen, janitors or outside sales or outside delivery men. Outside delivery men shall not be permitted to work more than 48 hours in any one week and watchmen and janitors shall not be permitted to work more than 56 hours in any one week.

SECTION 8. A tolerance of ten percent upon the hours specified above is permitted for employees who act as factory clerks receiving not less than \$25.00 per week. The number of such factory clerks shall be limited to five percent of the total number of employees of any one employer, with a minimum of one in plants having twenty or less employees.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. No person under 16 years of age shall be employed in the industry nor anyone under 18 years of age at operations, or occupations hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator a list of such occupations within 30 days after the effective date hereof. In any State an employer shall be deemed to have complied with this provision if he shall have on file a certificate or permit duly issued by the Authority in such State empowered to issue employment or age certificates or permits, showing that the employee is of the required age.

SECTION 2. (a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) No employee and no one seeking employment shall be required, as a condition of employment, to join any company union or to refrain from joining, organizing or assisting a labor organization of his own choosing.

(c) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

SECTION 3. Within each State this Code shall not supersede any laws of such State imposing more stringent requirements on employers as to age of employees, wages, hours of work, or as to safety, health, sanitary or general working conditions, or insurance, or fire protection, than are imposed by this Code.

SECTION 4. Employers shall not reclassify employees or duties of occupations performed by employees or engage in any subterfuge to defeat the purpose of the Act or of this Code.

SECTION 5. Every employer shall make reasonable provision for the safety and health of his employees at the place and during the hours of their employment. Standards for safety and health shall be submitted by the Code Authority to the Administrator for approval within six months after the effective date of this Code.

SECTION 6. All employers shall post and keep posted copies of this Code in conspicuous places accessible to employees.

ARTICLE VI—RECONSIDERATION OF WAGES

SECTION 1. It is recognized that this industry is in competition with other industries operating under other Codes and that there must be an inter-relationship of wage minimums among these industries in order to preserve an equitable basis of competition. Therefore, any revision in minimum wage rates which may take place in the Codes of competitive industries shall be considered adequate cause for reconsideration of the wage rates of this Code. Any revision which may be made shall be subject to the approval of the Administrator.

ARTICLE VII—ORGANIZATION

ADMINISTRATION AND PARTICIPATION

SECTION 1. To further effectuate the policies of the Act, a Code Authority is hereby constituted to cooperate with the Administrator in the administration of this Code.

SECTION 2. The Code Authority shall consist of the Board of Managers of the Association, together with one representative of members of the industry who are not members of the Association, who assent to this Code and pay their pro-rata share of the cost of preparation and administration thereof; and in addition thereto the Administrator may, in his discretion, appoint not more than three additional members. The appointees of the Administrator shall have no vote, and each appointee shall serve without expense to the Industry. The representative of the non-members of the Association shall be elected by the non-members in any fair manner designated by the Board of Managers and approved by the Administrator.

SECTION 3. In order that the Code Authority shall at all times be truly representative of the industry, and in other respects comply with the provisions of the Act, the Administrator may prescribe such hearings as he may deem proper, and thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, he may require an appropriate modification in the method of selection of the Code Authority. Within 30 days after the effective date of this Code, and not later than April 1, 1934, the Board of Managers shall cause a special meeting of the Members of the Association to be held for the purpose of electing a Board of Managers of the Association whose terms shall extend until the next annual meeting of the members of the Association.

SECTION 4. Members of the industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of the preparation and administration thereof, to be determined by the Code Authority, subject to review by the Administrator on the basis of volume of business and/or such other factors as may be deemed to be equitable. The Treasurer of the Association shall bill each assenting member with his proportionate share of the expense of the preparation and administration of this Code. Within fifteen days of such billing the member shall pay the amount of such billing to the Treasurer of the Association for the benefit of the Code Authority.

SECTION 5. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any Member of the Code Authority be liable in any manner to any person for any act of any other member, officer, agent, or employee of the Code Authority. Nor shall any Member of the Code Authority, exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any act or omission to act under this Code, except for his own willful misfeasance or non-feasance.

SECTION 6. The Code Authority shall have the following powers and duties, the exercise of which shall be reported to the Administrator and shall be subject to his right, on review, to approve or disapprove any action taken by the Code Authority:

(a) To insure the execution of the provisions of this Code and provide for the compliance of the Industry with the provisions of the Act under such rules and regulations as may be established by the Administrator.

(b) To adopt by-laws and rules and regulations for its procedure and for the administration and enforcement of the Code.

(c) To receive and investigate complaints and to attempt to adjust the same in accordance with law under such rules and regulations as may be prescribed by the Administrator.

(d) To represent the Industry in conferring with the President or his agents, with respect to the Administration of this Code and in respect to the Act and any regulations issued thereunder.

(e) To obtain from Members of the Industry such information and reports as are required for the administration of the Code and to provide for submission by members of such information and reports as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act, which information and reports shall be submitted by members to such administrative and/or government agencies as the Administrator may designate; provided that nothing in this Code shall relieve any Member of the Industry of any existing obligations to furnish reports to any government agency. No individual reports shall be disclosed to any other Member of the Industry or any other party except to such governmental agencies as may be directed by the Administrator. All such reports shall be received on behalf of the Code Authority by the Executive Secretary of the Association, and at the request of any member his reports shall be kept confidential except as above provided.

(f) To use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided that nothing herein shall relieve the Code Authority of its duties or responsibilities under this Code, and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

(g) Each trade or industrial association, directly or indirectly participating in the selection or activities of the Code Authority shall (1) impose no inequitable restrictions on membership, and (2) submit to the Administrator true copies of its articles of association or incorporation, by-laws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purpose of the Act.

(h) To make recommendations to the Administrator for the coordination of the Administration of this Code with such other Codes, if any, as may be related to the Industry.

(i) To secure from members of the Industry an equitable and proportionate payment of the reasonable expenses of maintaining the Code Authority and its activities.

(j) To cooperate with the Administrator in regulating the use of any N.R.A. insignia solely by those Members of the Industry who have assented to, and are complying with this Code.

(k) To recommend to the Administrator further fair trade practice provisions to govern Members of the Industry in their relations with each other or with other industries, and to recommend to the Administrator measures for industrial planning, including stabilization of employment.

SECTION 7. If the Administrator shall determine that any action of the Code Authority or any agency thereof may be unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such Code Authority or agency pending final action which shall not be effective unless the Administrator approves or unless he shall fail to disapprove after thirty days' notice to him of intention to proceed with such action in its original or modified form.

ARTICLE VIII—STANDARDS AND MARKETING

SECTION 1. The Code Authority shall from time to time specify and define, subject to the approval of the Administrator, the Products which are to be considered the standard products of the Industry.

SECTION 2. The Code Authority shall, as soon as practicable, prepare minimum standards of quality for the standard products so specified, and after approval by the Administrator and the publication of such standards by the Code Authority, no Member shall manufacture or sell a Product below such standards. The Code Authority shall have the right to change such standards from time to time subject to the approval of the Administrator.

SECTION 3. Any Product which is a standard product of more than one Member, shall be subject to a definite codification by the Code Authority, which codification shall appear on all tags, packages and invoices relating thereto and other appropriate places. This may be accompanied by the member's own trade name and description in addition thereto.

SECTION 4. On any such standard product, material specifications shall be determined by the Code Authority, and any variation from such specifications must be noted on tags, packages, and invoices, relating thereto.

SECTION 5. The Code Authority shall prescribe rules and regulations providing for the sale of surplus inventories, discontinued lines and Products which are not up to specifications of sale or do not comply with the minimum standards as herein set forth, where such goods are not sold on contract. Such rules and regulations shall be effective upon approval by the Administrator. No Member of the Industry shall sell any goods in any of the classes hereinabove described for the purpose of violating the provisions of this Code or of defeating the purposes of the Act or except in full compliance with such rules and regulations.

ARTICLE IX—TERMS

SECTION 1. Maximum terms for the Industry shall be two percent cash discount on all invoices dated between the first and fifteenth of the month if paid on the twenty-fifth of the same month and on invoices dated between the sixteenth and thirty-first, if paid on the tenth of the following month. All invoices shall be dated as of the date of shipment.

SECTION 2. Cash discounts shall not be allowed if not earned. Cash discounts may only be earned by payment in cash or equivalent, but not in trade acceptances, notes or other evidences of indebtedness. Due to possible mistakes in mailing of payments or otherwise, three (3) days grace may be extended to customers for the earning of cash discounts, in which event date of payment must be considered date of postmark.

SECTION 3. A carload buyer entitled to a carload discount shall be construed as one who places at one time an order for a minimum of twenty thousand pounds of the products of this industry. Such carload quantity, defined as above, may be divided into several shipments, but the entire carload quantity shall be entirely shipped within fifteen days of the date of the first shipment. If partial shipments of a single carload order are made, they shall be identified and marked on each invoice: "Partial shipment on carload order". The carload discount shall be allowable only after the completion of shipment of the entire order within the time herein limited, and as a credit against the invoice for the last shipment. No buyer who is not a carload buyer, as herein defined, shall be entitled to any discount other than cash discounts.

SECTION 4. Notes are to bear legal interest payable at place of maker in all cases.

SECTION 5. If the original terms of sale shall so provide, trade acceptances which are due within sixty (60) days of date of invoice without interest may be accepted as payment, provided no cash discount is allowed; all trade acceptances shall be dated the date of shipment. All notes given in renewal of trade acceptances, shall bear interest at the legal rate payable at the place of business of the maker.

SECTION 6. Every Member shall charge and make a reasonable effort to collect interest at a rate of not less than 6% per annum or the legal rate on all purchases not paid for by the customer within sixty (60) days following date of invoice, but ten (10) days grace thereafter may be allowed before interest shall be charged.

SECTION 7. All customers whose accounts are unpaid within sixty (60) days after the date of invoice, shall be reported on the 10th day of each month to the Code Authority for compilation into protective credit reports to be furnished to all Members who have assented to this Code, and have contributed to the expense of administration thereof, as herein provided. In the event that an account is in dispute, the report shall so indicate. An account evidenced by any trade acceptance, note or payment other than by cash or check, shall be considered unpaid, but shall not be considered delinquent prior to maturity of such instruments.

ARTICLE X—PUBLICATION OF PRICES

SECTION 1. Each Member shall, within five days after the effective date of this Code, file with the Code Authority a published list showing sales prices and carload discounts for all of its products, as defined by this Code, and from and after the expiration of such five days, such member shall at all times maintain on file, with the Code Authority, such a list and shall not make any change in such list except as may be hereinafter provided. All published prices shall be f.o.b. plant of seller. Each such published list shall become effective ten days after the date of filing with the Code Authority, provided, however, that the first list filed by any manufacturer as to any such products, as above provided, shall take effect on the date of filing thereof. All price lists shall be forwarded from the main office of each member, by registered mail, and the date of mailing shall be considered the date of filing. Whenever any price list shall be filed with the Code Authority, the same shall be made available to all persons interested therein upon request.

SECTION 2. No published list filed by any member as herein provided, shall be changed except by the filing by such member of a new published list, which shall become effective ten days after the date on which such new list shall have been so filed.

SECTION 3. Whenever a member shall file a new list with the Code Authority, such member shall not sell such products on the basis of such new list until it shall have been on file for ten days with the Code Authority, except as herein otherwise provided.¹

SECTION 4. Whenever any member shall file with the Code Authority a new published list for any Product, it shall be the duty of the Code Authority to immediately mail to each other member of the Industry, who has assented to the Code and has paid its proportionate share of the expense of the preparation and administration of this Code, a copy of such portions of such new list which apply to any Product manufactured by such other Member, and thereupon any other Member may, if it shall so desire, file a revision of its list of the same or similar competing Product to meet the initial change, which, at the option of such Member may become effective upon the date when the new list first filed with the Code Authority shall go into effect, and like notice shall be given by the Code Authority of any further new lists so filed by any other Member.

SECTION 5. The Code Authority shall cause to be formulated an accounting system and methods of cost finding and/or estimating capable of use by all Members of the Industry. After such system and methods have been formulated and approved by the Administrator, full details concerning them shall be made available to all Members. Thereafter all Members shall determine and/or estimate costs in accordance with the principles of such methods. The pricing and/or selling by any Member of the Industry of any Product below cost as determined in accordance with the principles of such methods is an unfair method of competition and a violation of this Code, except as provided in Section 7 of this Article X.

SECTION 6. The Code Authority may require any member of the Industry to submit data as to the cost of production of any of the prod-

¹ See paragraph 2 of order approving this Code.

ucts for which prices have been filed, as such costs shall have been determined pursuant to Section 5 of this Article, and may, for purposes of verification of the accuracy thereof, examine so much of the pertinent books and records of such Member as may be required to verify such statements. Notification shall be given to all other members of the Industry in the event such data is required. If the Code Authority determines that a filed price violates the provisions of Section 5 of this Article, such price shall thereupon become noneffective and the Code Authority shall immediately notify such Member of its conclusions and such Member shall immediately file a new price list which complies with said provisions of Section 5 of this Article. All decisions of the Code Authority under this Section, together with the reasons therefor, shall be filed with the Administrator and shall be subject to suspension or cancellation.

SECTION 7. Selling below cost to meet any existing lawful competition on Products of equivalent design, character, quality or specifications, shall not be deemed a violation of this Code, and shall at all times be permitted. It shall be lawful to meet any published net price for any Product filed by any Member with respect to which the Code Authority shall not theretofore have begun an investigation, as provided in Section 6 of this Article. Whenever any new list shall be filed by any Member as to any Product pursuant to Section 6 of this Article, it shall be the duty of the Code Authority to notify each Member assenting to and complying with the Code, of the filing of such new list, and it shall be the further duty of the Code Authority to notify each Member so assenting to and complying with this Code, as soon as practicable and not later than ten days after the filing of such new list, whether or not it has been accepted as complying with Section 6 by the Code Authority, or is subject to investigation; and whenever any Member shall file or desire to file a new list for any Product to meet a previously filed list, it shall be the specific duty of the Code Authority to at once notify the Member whether or not an investigation has been begun as to the propriety of such first filed list. And if at any time after the filing of competing lists, an investigation shall be begun by the Code Authority as to the propriety of the list first filed, like notice shall be given to all Members who have met the competition afforded by such list with respect to which such investigation shall have been begun. Whenever any list shall be withdrawn by any Member after complaint by the Code Authority, or the operation of such list shall in any manner be restrained, then all published lists theretofore filed to meet such improper list, shall, upon notice from the Code Authority, likewise be withdrawn. In order that each Member shall be allowed to meet all lawful competition, it shall not be necessary that the list filed by each Member shall show that the same shall prevail in all areas, zones and territories, but each list filed by any Member, or any revision thereof or amendment thereto, may make specific provision to meet any lawful competition offered to the Member in any named area, zone, or territory. But nothing herein contained shall be construed to prevent any Member from selling any Product at a price not below such Member's cost, determined as set forth in Section 5 hereof.

SECTION 8. Items bearing extras shall be sold at prices which include for such extras, additions to published prices at not less

than the Member's individual cost for such extras. "Extras" means better quality, materials, or features additional to those specified for the Product for which the price list was filed.

SECTION 9. Whenever it shall be necessary for the Code Authority to act under any provision of this Code, the votes of the members of the Code Authority upon any issue may be received by the Code Authority by telephone, telegraph, orally or in writing, or in any other manner set forth in the By-Laws to be adopted by the Code Authority. Administration Members of the Code Authority shall be advised forthwith of any such action.

ARTICLE XI—UNFAIR TRADE PRACTICES

SECTION 1. No Member shall sell or exchange directly or indirectly by any means whatsoever any Product of the Industry at a price lower or a discount greater or on more favorable terms of payment than that of his published list in effect the date the order for such sale or exchange was accepted, nor shall he invite or consider offers, tenders, or orders at a price below his list effective at the time of such offer, tender or order, provided, however, that any Member shall at all times be allowed to make an allowance for equalization of freight as against the most favorably situated competitor.

SECTION 2. Where two or more Products of the Industry are sold in combination, each Product must be separately priced and sold. No allowance shall be made upon the price of any one Product by reason of the purchase of any other Product in combination with the first.

SECTION 3. No Member shall sell a Product of the Industry in combination with merchandise which is not a Product of the Industry, except where such merchandise shall be separately sold and separately priced.

SECTION 4. No Member shall condition the sale of one class of Product to a customer upon the agreement of such purchaser to purchase other Products or other merchandise made or sold by the same Member.

SECTION 5. After the effective date of the Code, no Member shall take any order for the delivery of merchandise at any period beyond ninety days from the making of a contract for the sale thereof, and every contract for the delivery of merchandise beyond thirty days from the date of making such contract shall be in writing signed by the purchaser, and shall be for a specific quantity of merchandise.

SECTION 6. All sales shall be invoiced at the time of shipment, and records pertaining to such sales shall clearly and accurately state all the essential elements of the sale.

SECTION 7. The following practices constitute Unfair Methods of Competition for the Members of the Industry, and a violation of this Code:

A. Branding or marking or packing any goods in any manner which is intended to or does deceive or mislead purchasers with respect to the brand, grade, quality, quantity, origin, size, substance, character, nature, finish, material content or preparation of such goods.

B. (1) Falsifying, by omission or otherwise, books of account, orders, acknowledgment of orders, invoices, statements of account with regard to quantity, quality, weights, proper descriptions or prices.

(2) Falsifying cost records or omission therefrom of essential factors of cost as required by Article X, Section 5.

C. Inducing or attempting to induce, breach of existing contract between competitors and their customers by any false or deceptive means whatsoever, or obstructing the performance of any such contracts by any such means, with the purpose and effect of hampering, injuring, or embarrassing competitors.

D. Obtaining confidential information concerning the business of a competitor by a false or misleading statement or representation, or by a false impersonation of one in authority.

E. Guaranteeing any purchaser against a decline of price. Guaranteeing any purchaser or prospective purchaser against an advance in price; provided, however, that nothing in this Section contained shall exclude the making of a bona fide contract for future delivery where such contract is mutually binding upon the seller and purchaser, and is for a specific quantity of merchandise, as hereinbefore provided.

F. Making wilfully false statements as to a competitor's character or products or ability to perform, or financial status.

G. (1) Paying or allowing, in the form of money, products, or otherwise, unearned rebates, refunds, credits or discounts.

(2) Extending services or privileges to any purchasers not extended to all purchasers under like terms and conditions.

H. Accepting the return of merchandise for credit, exchange, or otherwise except where claim has been made to the dealer within sixty days after shipment by the dealer, and/or except where permitted by clauses under "Guarantee" to the extent there permitted.

I. Granting extra discount or additional interest for anticipation of proper payment date.

J. Granting a discount based on cumulative quantities ordered over a given period.

K. Post-dating or pre-dating quotations, orders, invoices, statements or other sales documents.

L. Consigning of merchandise, or any method of selling or exchanging the same which has the effect of selling on consignment or memorandum.

SECTION 8. No Member of the Industry shall give, permit to be given, or directly offer to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent or representative of another in relation to the business of the employer of such employee, the principal of such agent, or the represented party, without the knowledge of such employer, principal or party. This provision shall not be construed to prohibit free and general distribution of articles commonly used for advertising except insofar as such articles are actually used for commercial bribery as hereinabove defined.

SECTION 9. Any deviation from or violation of the provisions of this Code by any Member of the Industry, either directly or indirectly through a distributor, shall be considered an unfair

method of competition and a violation of this Code by such Member. By distributor as used in this Section, it is intended to include dealers, salesmen, sales agents and any other person authorized to sell or to negotiate sales of Products of the Industry on behalf of any Member.

SECTION 10. Nothing in this Code shall limit the effect of any adjudication by a Court of competent jurisdiction or a holding by the Federal Trade Commission on complaint, finding or order that any practice or method is unfair.

ARTICLE XII—MONOPOLIES

No provision in this Code shall be so applied as to permit monopolies or monopolistic practices; or to eliminate, oppress, or discriminate against small enterprises.

ARTICLE XIII—AMENDMENTS AND MODIFICATIONS

SECTION 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of Sub-section (b) of Section 10 of the National Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any condition imposed by him upon his approval thereof.

SECTION 2. This Code, except as to the provisions required by the Act, may be modified on the basis of experience or changes in circumstances, such modification to be based upon application to the Administrator and such notice and hearing as he shall specify, and to become effective on approval of the President.

SECTION 3. If the Code Authority shall desire to propose an amendment to the Code, it shall first approve any such amendment, and shall submit the proposed amendment to the Members of the Industry, who shall thereupon vote upon said proposed amendment at a special meeting to be called for that purpose, at which meeting voting may be by proxy. In voting upon any amendment so submitted by the Code Authority there shall be two separate and distinct ballots thereon as follows:

(a) Each Member voting shall be entitled to cast one vote upon the said amendment, which vote shall be known as the "Member Vote".

(b) In addition to the "Member Vote" each Member voting shall be entitled to cast one separate and distinct vote or votes for each dollar of gross sales of such Member for the proceeding semi-annual period of January to June inclusive, or July to December inclusive. This vote shall be known as the "Volume Vote".

In order to receive approval any such proposed amendment shall receive the affirmative vote of (a) at least two-thirds of the "Member Votes" cast, and in addition thereto (b) at least two-thirds of the "Volume Votes" cast, both separately considered. If such proposed amendment shall be approved in the manner above set forth, the Code Authority shall submit such proposed amendment to the Administrator.

SECTION 4. Whenever the Code Authority shall be of opinion that the application of any provision of this Code in any particular case or instance works an undue hardship, the Code Authority may apply to the Administrator for an exemption or exception as to such particular case or instance, and upon the allowance of such exemption or exception the Code Authority may take, allow or permit such action as is not inconsistent with the exemption or exception allowed by the Administrator; but this paragraph shall not apply to any provision of this Code required by the Act.

ARTICLE XIV—PRICE INCREASES

Whereas the policy of the Act to increase real purchasing power will be made impossible of consummation if prices of goods and services increase as rapidly as wages, it is recognized that price increases be delayed and that, when made, the same should, so far as reasonably possible, be limited to actual increases in the seller's costs.

ARTICLE XV—EFFECTIVE DATE

This Code shall become effective on the fifth calendar day after its approval by the President.

Approved Code No. 329.

Registry No. 1154-01.



UNIVERSITY OF FLORIDA



3 1262 08851 8013