

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

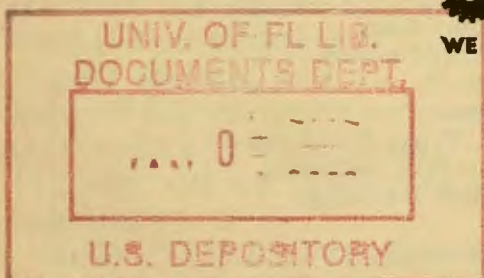
FOR THE

**ASPHALT AND MASTIC TILE
INDUSTRY**

AS APPROVED ON DECEMBER 7, 1933

BY

PRESIDENT ROOSEVELT



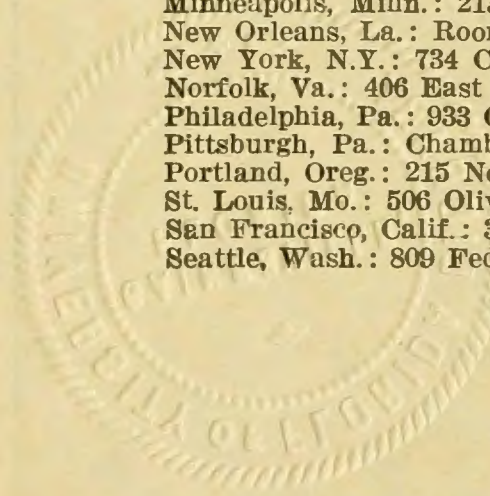
1. Executive Order
2. Letter of Transmittal
3. Code

**UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1933**

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.: 2213 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.: 933 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 Building.



Approved Code No. 150

CODE OF FAIR COMPETITION
FOR THE
ASPHALT AND MASTIC TILE INDUSTRY

As Approved on December 7, 1933

BY
PRESIDENT ROOSEVELT

Executive Order

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 my approval of a Code of Fair Competition for the Asphalt and Mastic Tile Industry, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said code of fair competition together with his recommendations and findings with respect thereto, and the Administrator having found that the said code of fair competition complies in all respects with the pertinent provisions of title I of said act and that the requirements of clauses (1) and (2) of subsection (a) of section 3 of the said act have been met:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do approve the report and recommendations and adopt the findings of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
December 7, 1933.

(617)

NOVEMBER 18, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Asphalt and Mastic Tile Industry in the United States as revised after the hearing held in Washington on November 14, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS OF THE CODE AS TO WAGES AND HOURS

This Code provides for a maximum of forty hours of work per week, averaged over a twenty-six-week period, and for a maximum of forty-eight hours in any one week, with one and one third times the normal wage rate for time worked in excess of eight hours per day. The following are excepted:

(a) Executive, supervisory, and technical employees, receiving no less than \$35.00 per week, outside salesmen and personal secretaries of executives;

(b) Employees on emergency maintenance or repair work, who are to be paid one and one third times the normal wage rate for time worked in excess of forty-eight hours per week;

(c) Watchmen, who are not to be employed more than twelve hours per day nor six days per week.

The Code provides for minimum rates of pay of 40 cents per hour in the North, 30 cents per hour in the extreme South, and 35 cents per hour in an intermediate zone. It provides for minimum rates of pay for office employees ranging from \$15.00 to \$14.00 per week, according to the population of the city, in the trade area of which they are employed.

The employment of persons under 18 years of age in manufacturing operations and under 16 years of age in other operations is prohibited.

Provision is made for the employment of aged or disabled employees at such wages and for such hours as stated in a certificate issued by a State authority designated by the United States Department of Labor, provided that the number of such employees does not exceed 5% of the total employed by any employer.

ECONOMIC EFFECTS OF THE CODE

This is a small industry employing less than 400 persons, but one which was growing rapidly until the year 1931. Present employment is approximately 25% less than in 1931 and approximately the same as in 1929. The volume of sales has declined approximately 50% since 1931 and income from sales has declined by a much higher percentage due to the lower unit prices now prevailing.

Most of the labor provisions of this Code have already been adopted by the industry. Since June of this year, the number of employees has increased approximately 25%, the average hourly earnings about 20% and the total weekly earnings of employees about

5%. The minimum wages proposed in the Code are from 80% to 100% higher than the lowest wages paid by some manufacturers in June of this year.

Price cutting in this industry has reached a point where sales are frequently made below the actual cost of materials. The Code should help to correct this evil.

FINDINGS

The Administrator finds that—

(a) The Code as recommended complies in all respects with the pertinent provisions of Title I of the Act, including, without limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Asphalt and Mastic Tile Industry; and that

(c) The Code as recommended is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of Title I of the National Industrial Recovery Act.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
ASPHALT AND MASTIC TILE INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act the following provisions are established as a Code of Fair Competition for the Asphalt and Mastic Tile Industry.

ARTICLE II—DEFINITIONS

SECTION 1. The term "Products" means Asphalt Tile, Asphalt Tile Bases, Tile Adhesives, Underlayment Materials (including Felt and Primer), and Finishes. Asphalt Tile is a thermoplastic material manufactured of asphalts, or plastics, or resins, or any combination of these materials, together with mineral and/or vegetable fillers or reinforcing materials, and mineral and/or vegetable color pigments, in the shape of tiles or sheets in its finished form, and less than one half inch in thickness and used for flooring purposes.

SEC. 2. The term "Industry", as used herein, includes the business of manufacturing, and selling by manufacturers, the Products, and such branches or subdivisions thereof as may from time to time be included under the provisions of this Code.

SEC. 3. The term "Member of the Industry" includes anyone engaged in the Industry as above defined, either as an employer or on his own behalf.

SEC. 4. The term "Member of the Code" includes anyone who has signified his assent to this Code by complying with the provisions of Paragraph (g) of Section 1 of Article VI.

SEC. 5. The term "Employee", as used herein, includes anyone engaged in the Industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

SEC. 6. The term "Employer", as used herein, includes anyone by whom any such employee is compensated or employed.

SEC. 7. The term "Association" means the Asphalt and Mastic Tile Association, an unincorporated association having an office at 41 East 42nd Street, New York City.

SEC. 8. The terms "President", "Act", and "Administrator" as used herein, shall mean, respectively, the President of the United States, the National Industrial Recovery Act, and the Administrator of Title I of said Act.

SEC. 9. The term "The effective date of the Code" means the second Monday after the Code shall have been approved by the President.

SEC. 10. Population, for the purposes of this Code, shall be determined by reference to the 1930 Federal Census.

ARTICLE III—HOURS

SECTION 1. Except as provided for in Section 2 of this Article no employee shall work or be permitted to work in excess of an average of more than forty (40) hours per week in any twenty-six (26) week period—that is, 1,040 hours in any twenty-six (26) week period—and in no event more than forty-eight (48) hours in any one week, nor more than six (6) days in any one week. In the event an employee is worked more than eight (8) hours in any one day, one and one third times the normal wage rate shall be paid for the time worked in excess of eight hours in one day.

SEC. 2. The provisions of the foregoing section shall not apply to:

(a) Any employee on emergency maintenance, or emergency repair work involving break-downs or protection of life or property, who, however, shall be paid at the rate of one and one third times the normal wage rate for time worked in excess of forty-eight (48) hours in any one week.

(b) Employees regularly employed in an executive, supervisory, or technical capacity receiving in no week in which they are employed less than Thirty-Five Dollars (\$35.00) per week. This exception, however, shall not apply to foremen regularly engaged in manual labor.

(c) Outside salesmen, and personal secretaries of executives.

(d) Watchmen, with the reservation, however, that they shall not work more than twelve (12) hours in any one day, nor more than six (6) days in any one week.

SEC. 3. No employer shall knowingly permit any employee to work any time which when totalled with that already performed with another employer or employers exceeds the maximum specified in this Article III.

ARTICLE IV—WAGES

SECTION 1. No employee shall be paid at less than the following rates:

30¢ per hour in the Southern Section of the Industry.

35¢ per hour in the Middle Section of the Industry.

40¢ per hour in the Northern Section of the Industry.

This minimum wage shall apply to common labor or other totally unskilled labor. Other classes of labor, including all pieceworkers, shall be compensated at a rate above this minimum. The above minimum rate shall be exempt from any charge and/or deduction by the employer.

SEC. 2. The Southern Section of the Industry shall be defined as follows: The States of Florida, Georgia, Alabama, Mississippi, Louisiana, Texas, Arizona, New Mexico, and South Carolina.

The Middle Section of the Industry shall be defined as follows: The States of North Carolina, Tennessee, Arkansas, Oklahoma.

All of the other States of the Union are designated as the Northern Section of the Industry.

SEC. 3. Accounting, clerical, office, or sales employees (excluding outside salesmen) in any office, department, or establishment shall not be paid less than at the rate of Fifteen Dollars (\$15.00) per week in any city of 500,000 population or over, or in the immediate trade area of such city; and not less than at the rate of Fourteen Dollars and Fifty Cents (\$14.50) per week in any city of between 250,000 and 500,000 population, or in the immediate trade area of such city; and not less than at the rate of Fourteen Dollars (\$14.00) per week in any city of less than 250,000 population.

SEC. 4. This Article establishes a minimum rate of pay regardless of whether an employee is compensated on a time-rate, piece-work, or other basis.

SEC. 5. Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

SEC. 6. Employers shall make payments of all wages due in lawful currency or by negotiable check therefor payable on demand at least twice a month.

SEC. 7. Employers shall not reduce the rates of wages for employees whose rates are now in excess of the minimum rate of wages herein provided (notwithstanding that the number of hours worked in such employment may be hereby decreased) and where in any case an employer has not increased the rates of wages for such employees prior to the effective date of this Code by an equitable readjustment of all such wage rates such employer shall readjust all such wage rates. This provision shall be interpreted in the same manner that paragraph 7 of the President's Reemployment Agreement has been interpreted by the Administrator in Interpretations Nos. 1 and 20.

ARTICLE V—GENERAL PROVISIONS

SECTION 1. No persons under 16 years of age shall be employed in the Industry nor anyone under 18 years of age in manufacturing operations.

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.

SEC. 2. 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 purposes of collective bargaining or other mutual aid or protection.

SEC. 3. 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.

SEC. 4. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

SEC. 5. Within each State this Code shall not supersede any laws of such State imposing more stringent requirements on employers regulating the age of employees, wages, hours of work, or health, fire, or general working conditions than under this Code.

SEC. 6. Employers shall not reclassify employees or duties of occupations performed by employees so as to defeat the purposes of the Act.

SEC. 7. Each employer shall post in conspicuous places in each department full copies of this Code.

SEC. 8. 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; the number of such employees shall not exceed five (5%) percent.

SEC. 9. Every employer shall make reasonable provision for the safety and health of his employees at the place and during the hours of their employment.

ARTICLE VI—ADMINISTRATION

To further effectuate the policies of the Act a Code Authority is hereby constituted to administer the Code.

SECTION 1. Organization and Constitution of Code Authority:

(a) The Code Authority shall consist of three individuals or such other member as may from time to time be approved by the Administrator, who shall be representatives of the Asphalt and Mastic Tile Industry. The Administrator, in his discretion, may appoint from one to three additional members to represent the Administrator, who shall not, however, be vested with voting rights and shall serve without expense to the Members of the Code.

(b) All voting members of the Code Authority shall be selected from Members of the Code and shall be elected by a vote of two thirds of all the Members of the Code, and said members shall be selected between the date of approval of the Code by the President and the effective date thereof.

(c) Every member of the Industry shall be eligible to membership in the Association, and there shall be no inequitable restrictions upon such members. Any member of the Industry desiring to become a Member of the Association may do so by signing and delivering to the Asphalt and Mastic Tile Association a letter substantially in the following form, to wit:

The PRESIDENT, ASPHALT AND MASTIC TILE ASSOCIATION,

41 East 42nd Street; New York, New York.

DEAR SIR: The undersigned, desiring to become a member of the Association and of the Code of Fair Competition of the Asphalt and Mastic Tile Industry, a copy of which is annexed hereto and marked "A", hereby assents to all of the provisions of said Code.

In consideration of the benefits conferred by such membership, the undersigned agrees to become a member of the Association and of the Code and agrees to be bound by all of the provisions of the Code and of the Constitution and By-Laws of the Association, effective as of the date on which the Code shall have been approved by the President of the United States, or as of the date on which this letter shall have been delivered, if delivery thereof shall have been made subsequent to the date on which the Code shall have been approved by the President.

Yours very truly,

By -----

Its-----

(d) The Asphalt and Mastic Tile Association shall (1) impose no inequitable restrictions upon members, and (2) shall submit to the Administrator two copies of its Articles of Association, Bylaws, and Regulations, and any amendments when made thereto, together with any other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

(e) 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 provide 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, may require an appropriate modification in the method of selection of the Code Authority.

(f) The Code Authority shall adopt its own rules of procedure and may delegate its authority or such part thereof to such agencies as it shall select, subject to review and approval or modification by the Administrator.

(g) 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 the members thereof by assenting to and complying with the requirements of this Code and bearing their proportionate share of the reasonable expenses of its administration. The reasonable share of the expenses of administration shall be determined by the Code Authority, subject to review by the Administrator. Such expenses shall be determined on the basis of volume of business and/or such other factors as may be deemed equitable to be taken into consideration.

SEC. 2. The Code Authority shall have the following duties and powers to the extent permitted by the Act, subject to the right of the Administrator on review to disapprove or modify any action taken by the Code Authority.

(a) With a view to keeping the President and the Members of the Code informed as to the observance or nonobservance of the Code, and as to whether Members of the Code are taking appropriate steps

to effectuate the declared policy of the Act, the Code Authority shall:

Study conditions in the Industry and from time to time, subject to approval of two thirds ($\frac{2}{3}$) of the members of the Industry, make such recommendations to the Administrator as it deems desirable to further the policies of the Act, and which, after such hearing as the President may prescribe, and upon his approval, shall become a part of this Code and shall have full force and effect as provisions hereof; and

Report to the Administrator at such times and concerning such conditions in the Industry as the Administrator may from time to time require, and every Member of the Code shall file in the office of the Asphalt and Mastic Tile Association at such time, in such form, and for such periods as required by the Code Authority, duly certified reports with respect to wages, hours of labor, conditions of employment, number of employees, production, and other matters pertinent to the proper supervision of the Industry as determined by the Code Authority.

(b) All confidential information of any nature requested by the Code Authority shall be collected by the Manager of the Asphalt and Mastic Tile Association or other agency not a member of the Industry selected by the Code Authority, and such information shall be kept confidential except when required by the Code Authority for the proper enforcement of the Code, and with the further exception that all such information shall be fully available to the Administrator. Only such information may be so requested by the Code Authority which is appropriate to the proper supervision of the Industry or to the enforcement of this Code.

(c) The Code Authority shall designate an agent or agents, not members of the Industry, to investigate complaints of violations of the Code. The members of the Code shall facilitate all such investigation by opening their correspondence, books, and accounts relating to alleged violation for examination by such authorized agent and by furnishing relevant information.

If, upon investigation, any complaint by a Member of the Code of a violation of the Code shall be determined by the Code Authority to be substantiated in any material respect, the Member of the Code guilty of such violation shall pay the cost thereof; otherwise the cost thereof shall be borne by the complainant.

All such information shall be kept confidential by the agent, except that in the event of any such violation being substantiated by the investigating agency the Code Authority shall be informed and shall present evidence thereof to the proper department, agency, or judicial branch of the Government.

The guilty member shall also be subject to all penalties provided for in the Act.

SEC. 3. *Appeals.*—(a) Any interested party shall have the right of complaint to the Code Authority, and a prompt hearing and decision shall be made thereon under such rules and regulations as it shall prescribe, in respect to any act of any agent or agency designated by the Code Authority to act in its behalf.

(b) Any interested party shall have the right of appeal to the Administrator, under such rules and regulations as he shall pre-

scribe, with respect to any decision, rule, regulation, order or finding made by the Code Authority.

SEC. 4. In addition to information required to be submitted to the Code Authority, there shall be furnished to government agencies such statistical information as the Administrator may deem necessary for the purpose recited in Section 3 (a) of the National Industrial Recovery Act.

ARTICLE VII—PUBLICITY OF PRICES

SECTION 1. On or before the effective date hereof each manufacturer shall publish and file with the Code Authority his current prices, discounts, and other conditions of sale, if any, which shall be uniform throughout the United States, and the Code Authority shall cause copies thereof to be immediately sent to all members of the Industry. Revised prices, discounts, and other conditions of sale shall be published and filed from time to time thereafter with the Code Authority by any member of the Industry to become effective upon the date specified therein, which shall not be later than ten (10) days after filing, and any reduced prices, or more favorable discounts or other conditions of sale shall be filed with the Code Authority ten days in advance of the effective date of the lower prices and/or more favorable discounts or other conditions of sale unless the Code Authority shall authorize a shorter period. Copies of revised price lists and more favorable discounts and other conditions of sale with notice of the effective date specified shall immediately be sent by the Code Authority to all members of the Industry, who thereupon may file, if they so desire, revisions of their price lists and/or discounts and other conditions of sale, which shall become effective upon the date when the revised price lists and/or discounts and other conditions of sale first filed shall go into effect, provided the price lists and/or discounts and other conditions of sale are not lower or more favorable than the revised price lists and/or discounts and other conditions of sale first filed. Any prices that are lower or discounts and other conditions of sale more favorable than the price lists and/or discounts and other conditions of sale already filed with the Code Authority shall not become effective until they shall have been filed with the Code Authority ten days in advance of the effective date of such new revised price lists and/or discounts and other conditions of sale.

SEC. 2. All price lists or changes in price lists filed with the Code Authority and all price lists or changes in price lists forwarded by the Code Authority to members of the Industry shall be forwarded by registered mail with a return receipt requested.

SEC. 3. The price list of every Member of the Industry shall show prices for each classification or definition of customer described in Section 1 (a), (b), and (c) of Article XII of this Code of Fair Competition and shall also include prices covering the installation of the Products of this Industry and accessories necessary to complete installation.

ARTICLE VIII—PROTECTION OF CUSTOMERS

SECTION 1. In the event of an advance in price by any Member of the Industry his flooring contractors and/or dealers shall have protection in price on all bids actually outstanding and closed contracts, provided the flooring contractor and/or dealer shall—

(a) Within 14 days of such price increase notify in writing the Member of the Industry with whom he may have executed a flooring contractors' agreement of such bids as the flooring contractor and/or dealer has outstanding;

(b) Within 10 days of the contract award, which in no event shall exceed 45 days after the date of such price increase, place a firm order with the Member of the Industry, with whom he may have executed a flooring contractors' agreement, for the quantity of the Products required to complete said contract.

SEC. 2. Every Member of the Industry shall file with the Code Authority the details of all bids that have been filed with said Member of the Industry by his flooring contractors and/or dealers in order to secure price protection as defined above within 20 days of such price increase.

ARTICLE IX—APPLICATION OF TILE BY MEMBERS OF THE INDUSTRY

SECTION 1. Every member of the Industry who applies any material shall designate and operate that part of his business as a separate department, which department shall operate in all respects as a flooring contractor and shall be subject to all of the terms and conditions of any form of flooring contractors' agreement which may be approved by the Code Authority and the Administrator, and no member of this Industry shall sell any Product through any such department at lower prices than published under Article VII of this Code.

ARTICLE X—PUBLICITY OF TRADE CLASSIFICATIONS

SECTION 1. Within ten (10) days after the effective date of this Code, each Member of the Industry shall publish to his trade and file with the Code Authority all classifications which have been established by him to determine the prices, terms, or conditions of sale made applicable by him to the different classes of his trade, for products covered by this Code. He shall publish to the trade and file promptly with the Code Authority any changes made by him in such classifications and any additional classifications.

Each member shall file at such times, in such manner, and at such places as may be designated by the Code Authority the names and locations of his trade, grouped according to his own stated classifications then in effect. The names and locations so filed shall be available to the trade and to the members of the Industry, provided, that the name of the manufacturer submitting any such names and locations shall not be disclosed without consent except to the extent necessary to prevent violations of this Article.

ARTICLE XI—TRADE PRACTICES

The following practices constitute unfair methods of competition for members of the Industry and are prohibited.

SECTION 1. *False Marking or Branding.*—The false marking or branding of any product of the Industry which has the tendency to mislead or deceive customers or prospective customers, whether as to the grade, quality, quantity, substance, character, nature, origin, size, finish, or preparation of any product of the Industry, or otherwise.

SEC. 2. *Misrepresentation or False or Misleading Advertising.*—The making or causing or knowingly permitting to be made or published any false, materially inaccurate, or deceptive statement by way of advertisement, or otherwise, whether concerning the grade, quality, quantity, substance, character, nature, origin, size, finish, or preparation of any product of the Industry, or the credit terms, values, policies, or services of any member of the Industry, or otherwise having the tendency or capacity to mislead or deceive customers or prospective customers.

SEC. 3. *Commercial Bribery.*—Directly or indirectly, to give or permit to be given, or offer to give, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase from the makers of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.

SEC. 4. *Interference with Contractual Relations.*—Maliciously inducing or attempting to induce the breach of an existing oral or written contract between a competitor and his customer or source of supply, or interfering with or obstructing the performance of any such contractual duties or services.

SEC. 5. *Giving of Prizes, Premiums, or Gifts.*—The offering or giving of prizes, premiums, or gifts in connection with the sale of products, or as an inducement thereto, by any scheme which involves lottery, misrepresentation, or fraud.

SEC. 6. The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or by the false disparagement of the grade or quality of their goods.

SEC. 7. *Threats of Litigation.*—The publishing or circularizing of threats or suits for infringement of patents or trade marks, or of any other legal proceedings not in good faith, with the tendency or effect of harassing competitors or intimidating their customers.

SEC. 8. *Espionage of Competitors.*—Securing confidential information concerning the business of a competitor by a false or misleading statement or representation, by a false impersonation of one in authority, by bribery, or by any other unfair method.

SEC. 9. *Selling at Less than Published Prices.*—The selling of any Product to any purchaser thereof at less than the published price applicable to such class of purchaser; or to effect a lower price by

any means whatsoever, either directly or indirectly, or by any subterfuge, or to use or effect a lower price than that published for all customers of the same class.

SEC. 10. *Secret Rebates*.—The secret payment or allowance of rebates, refunds, commissions, credits, or unearned discounts, whether in the form of money or otherwise, or the secret extension to certain purchasers of special services or privileges not extended to all purchasers on like terms and conditions.

SEC. 11. *Selling Below Cost*.—The selling of the Product below the manufacturer's individual cost except to meet any price published by another manufacturer in accordance with Article VII; in meeting these prices the manufacturer shall comply with all the provisions of Article VII. Cost shall be determined by such method as is prescribed by the Code Authority and approved by the Administrator.

SEC. 12. *Consignment, Free Goods, or False Billing*.—Shipping goods on consignment or storing goods in any place where a flooring contractor or dealer has any interest, or hiring a warehouse from customer except where the customer may have or own an interest in a public warehouse in which the customer's place of business is not located; or in any way delivering free goods to any customer or prospective customer; or invoicing goods to any other person than the person by whom payment is to be made; or making any fictitious invoice for any shipment; paying a price in excess of the prevailing open-market price for any product of this Industry; paying for materials of his own manufacture more than the original net delivered cost thereof.

SEC. 13. Informing any customer or prospective customer, directly or indirectly, of any change or contemplated change in any price and/or discount prior to the date on which such price and/or discount is to be published to the trade.

SEC. 14. *Other Unfair Practices*.—Nothing in this Code shall limit the effect of any adjudication by the Courts or holding by the Federal Trade Commission on complaint, finding, and order, that any practice or method is unfair, providing that such adjudication or holding is not inconsistent with any provision of the Act or of this Code.

ARTICLE XII—MERCHANDISING PLAN

The following shall constitute the Merchandising Plan of the Industry:

SECTION 1. *Classification of Customers*.—The following classifications of customers shall be used by all members of the Industry when publishing to the trade and filing with the Code Authority schedules of prices, discounts, allowances, rebates, or terms of sale and notices of changes therein. If said classification by virtue of its application works hardship on any customer, such customer may appeal to the Code Authority which shall have power to reclassify such customer as justice requires.

(a) **Flooring Contractor:** A flooring-covering Contractor who actively engages in the solicitation and installation of the Product, who possesses a good reputation for high quality workmanship and business integrity; who will sign a standard form of contract with a single member of the Industry for the purchase of his entire requirements, which standard form of contract shall be designed to conform to the practice under and the provisions of the Code, and to be approved by the Code Authority and the Administrator.

(b) **Dealer:** A floor-covering contractor who engages in the solicitation of and/or installation of the Product; who possesses a good reputation for high quality workmanship and business integrity, but who otherwise does not comply with the qualifications of a flooring contractor.

(c) **Consumer:** Any customer who purchases the Product for use and installation for himself and not for resale.

SEC. 2. *Method of Listing Flooring Contractors.*—Each member of the Industry shall determine his own trade classification of customers, and when determined shall file with the Code Authority lists of flooring contractors and dealers classified.

SEC. 3. *Segregation of Items.*—In all bids, proposals, quotations, and invoices involving materials other than the Product, the price to be charged on each shall be segregated so that the product shall be separate and distinct from all other items.

ARTICLE XIII—GENERAL

SECTION 1. Nothing contained in the Code shall be deemed to constitute any of the members thereof partners for any purpose. No member of the Code shall be liable in any manner to anyone for any act of any member or agent of the Code Authority or of the Association. No member of the Code, except as otherwise provided herein, and no member of the Industry or of the Code Authority and no agent of the Industry or of the Association, shall be liable to anyone or in any manner other than as provided in the Act, or in the Code, for any act or failure to act under the Code.

SEC. 2. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under said Act.

SEC. 3. This Code, except as to 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. The Members of this Industry assenting to this Code do not thereby consent to any modification thereof, and they reserve the right to object individually or jointly to any such modification.

The provisions of this Code shall remain in effect until and unless modified or eliminated in accordance with the foregoing provisions

of Section 2 hereof and of this Section 3, or until the expiration of the Act, namely, June 16, 1935, or sooner, if the President shall, by proclamation, or Congress shall, by joint resolution, declare the emergency recognized by Section 1, Title 1, of the Act, has ended.

ARTICLE XIV—EFFECTIVE DATE

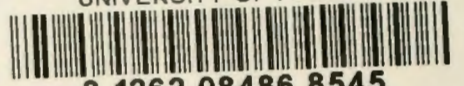
This code shall become effective on the second Monday after its approval by the President.

Approved Code No. 150.

Registry No. 1003-03.



UNIVERSITY OF FLORIDA



3 1262 08486 8545