

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Maureen K. Ohlhausen, Acting Chairman
Terrell McSweeney

In the Matter of)
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)
THE SHERWIN -WILLIAMS COMPANY,)
 a corporation;)
) Docket No. G4621
 and)
)
)
THE VALSPAR CORPORATION,)
 a corporation.)
)
)

COMPLAINT

II. JURISDICTION

3. Respondents, and each of their relevant operating subsidiaries and parent entities, are, and at all times relevant herein have been, engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. § 12, and Section 4 of the FTC Act, 15 U.S.C. § 44.

III. THE PROPOSED ACQUISITION

4. Pursuant to a Agreement and Plan of Merger (the "Merger Agreement") dated as of March 19, 2016, Sherwin-Williams proposes to purchase all issued and outstanding common stock of Valspar in a transaction valued at approximately \$1.5 billion ("the Acquisition"), including the assumption of debt

IV. THE RELEVANT PRODUCT MARKET

5. The relevant line of commerce in which to analyze the effects of the Acquisition is no broader than coatings used in the manufacture of industrial wood products, such as furniture, kitchen cabinets, and building products ("industrial wood coatings")

6. Industrial wood coatings consist of a broad category of stains, topcoats, and sealants used during the manufacture of wood products such as kitchen cabinets, furniture, and building products. Industrial wood coatings are distinguishable from consumer wood coatings on other characteristics, their higher resistance to abrasion and water

7. Furniture, kitchen cabinet, and building products manufacturers (the "wood product manufacturers") would not switch from industrial wood coatings to consumer wood coatings in response to a small but significant and transitory increase in price in industrial wood coatings. Consumer wood coatings cannot provide the same levels of abrasion and water resistance that wood products manufacturers need. In addition, industrial wood coatings are often sold with on-site technical assistance to wood product manufacturers. This service is critical to wood product manufacturers as it enables them to resolve any problems with the application of the industrial wood coatings on their finishing lines

8. Wood product manufacturers would likewise not switch from industrial wood coatings to alternative substrates in response to a small but significant and transitory increase in price for industrial wood coatings. Wood product manufacturers rely on finished wood in order to maximize sales and attract certain customers who value the appearance that finished wood gives to cabinets, furniture, and building products. If wood product manufacturers switched away from finished wood in response to higher industrial wood coatings prices, they would face an unacceptably high risk of lost sales.

V. THE RELEVANT GEOGRAPHIC MARKET

9. The relevant geographic market which to analyze the competitive effects of the Acquisition for industrial wood coatings is no broader than North America. Due to high freight costs and logistical challenges there are minimal imports of industrial wood coatings from overseas into the North American market.

VI. MARKET STRUCTURE

10. Sherwin-Williams, Valspar and Akzo Nobel N.V. ("Akzo Nobel") are the three leading suppliers of industrial wood coatings in North America. Post Acquisition, the combined share of Sherwin-Williams and Valspar would be over 40% for industrial wood coatings in North America. The merged firm and Akzo Nobel together would account for over 70% of the North American industrial wood coatings market.

VII. ENTRY CONDITIONS

11. Entry into the relevant market would not be timely, likely, or sufficient to prevent or deter the expected anticompetitive effects of the Acquisition. Considerable entry barriers exist in the manufacture of industrial wood coatings including significant volume requirements necessary to manufacture efficiently; high capital costs to construct industrial wood coatings plant; and customer reluctance to switch to unproven new suppliers.

12. Likewise, the threat of vertical integration by wood product manufacturers would not be timely, likely, or sufficient to prevent or deter the expected anticompetitive effects of the Acquisition. Even for the largest wood product manufacturers, vertical integration would not be a credible threat due to the significant capital costs and technical requirements.

IX. VIOLATIONS CHARGED

15. The allegations contained in Paragraphs 1 through 14 above are hereby incorporated by reference as though fully set forth here