SCHICK INCORPORATED ET AL.

Docket 6892. Order, Sept. 14, 1959

Order denying motion to reopen Clayton Act proceeding—disposed of by a consent order on Nov. 3, 1958, 55 F.T.C. 665—following amendment of Act to provide for more expeditious enforcement of orders and imposition of penalties for violations.

Respondents, Schick Incorporated and Schick Service, Inc., having filed a motion requesting the Commission to set aside the order to cease and desist entered herein on November 3, 1958; and

Said respondents having alleged in support of their motion (1) that since the entry of the order, Section 11 of the Clayton Act has been amended by the enactment of Public Law 86–107, approved July 23, 1959, to provide for the automatic "finalization" of orders

issued under the Clayton Act and for the imposition of civil penalties of not more than $5,000 for each violation of an order which has become final, and (2) that the procedures thus established for the enforcement of orders issued under the Clayton Act deprive the respondents of the "warning feature" and the "protective system" inherent in the enforcement procedures available under the statute prior to the amendment, whereunder a respondent could not be penalized until after the Government had, on two successive occasions, satisfied a Court of Appeals that the respondent had violated or was about to violate the order; and

It appearing that the order to cease and desist was entered in disposition of this proceeding pursuant to and in strict conformity with a voluntary agreement theretofore executed by the respondents and counsel in support of the complaint expressly providing for the entry thereof, and in which agreement the respondents, among other things, expressly waived all of the rights they may have had to challenge or contest the validity of the order; and

The Commission being of the opinion that the changes in the procedures for the enforcement of orders to cease and desist issued under the Clayton Act brought about by the enactment of Public Law 86-107 afford no basis for the Commission to set aside a previously entered order.

It is ordered, That the respondents' motion be, and it hereby is, denied.

BAKERS FRANCHISE CORPORATION ET AL.

Docket 7472. Order and Opinion, Sept. 14, 1959

Interlocutory order denying respondents' application for release of question-