determined that respondent has shown no sufficient basis to justify a rehearing as requested.

It is ordered, That respondent's motion for rehearing be, and it hereby is, denied.

Commissioner Elman not concurring.

CHESEBROUGH-POND'S, INC.

Docket 8491. Order, June 28, 1963

Interlocutory order denying respondent's motion that Commission hear its argument that hearing examiner should adopt an order the respondent had proposed.

Order Denying Request for Permission to File an Interlocutory Appeal

This matter is before the Commission upon respondent's petition, filed May 31, 1963, requesting permission to file an interlocutory appeal from the hearing examiner's oral ruling denying respondent's motion to certify to the Commission for its determination the question whether respondent's proposed order to cease and desist may be entered in final disposition of this proceeding. In a supplemental motion, respondent requested a hearing before the Commission on its petition.

The Commission is of the opinion that the respondent has made no showing of circumstances such as to require immediate decision, as provided by § 4.18 of its Rules of Practice. Moreover, in view of the statement by counsel supporting the complaint, on the record, that additional evidence as to the challenged practices would be offered, an immediate decision as to the scope of an order to cease and desist obviously is not appropriate at this time. Accordingly, respondent's request should be denied on this ground. However, in view of the history of this proceeding and in light of the significance attached by respondent to certain evidence which has been stipulated into the record, the Commission has considered the merits of respondent's arguments.

It is the Commission's view that there is no error in the hearing examiner's ruling that the record as now constituted does not provide an adequate basis for factual findings as required by the Commission's order of November 26, 1962. In this same connection, the Commission notes that neither respondent's motion to the hearing examiner for entry of an order to cease and desist nor its present request to the Commission contemplates such findings. Moreover, the Commission is of the opinion that the stipulated evidentiary material is so lacking in detail as to render it extremely difficult to determine the appropriate scope of an order to cease and desist.

As to procedure, the Commission's Rules of Practice make no provision for the final disposition of a formal proceeding in the manner urged by respondent. And, complaint having issued, the consent order procedure provided by Part 3 of the Commission's Rules of Practice is not available.

The Commission is of the opinion that it is sufficiently informed as to the matters in issue and that oral argument thereon is not warranted.

In view of the foregoing, *It is ordered*, That respondent's requests for permission to file an interlocutory appeal and for oral argument be, and they hereby are, denied.

Commissioner Elman concurring in the result.

WHITE LABORATORIES, INC.

Docket 8500. Order, June 28, 1963