

IN THE MATTER OF

ATD CATALOGS, INC., ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL
TRADE COMMISSION ACT

Docket 8100. Complaint, Aug. 25, 1960—Decision, Mar. 27, 1967

Order reopening proceeding, setting aside consent order and dismissing complaint against The S & M Company, a corespondent in a consent order entered into with ATD Catalogs, Inc., et al. on April 3, 1964, 65 F.T.C. 71.

ORDER REOPENING PROCEEDING, SETTING ASIDE CONSENT ORDER
AND DISMISSING COMPLAINT

This matter is before the Commission upon the petition of respondent The S & M Company, a corporation, filed October 24, 1966, to reopen the proceeding pursuant to § 3.28 (b) (2) of the Commission's Rules of Practice and as to it, to set aside the consent order issued April 3, 1964 [65 F.T.C. 71], and to dismiss the complaint. The Director of the Bureau of Restraint of Trade has filed an answer thereto, stating that in view of the Commission's action herein in setting aside the consent order and dismissing the complaint as to respondents James V. Cariddi and Southland Distributors, Inc., he did not oppose the petition.

As grounds for its request, respondent The S & M Company, a wholesaler, asserts that the Commission dismissed the complaint herein against litigating wholesalers where it was shown that they had no stock interest in ATD and their officers or principals did not concurrently hold positions in the publishing corporation and where the record did not support a finding that these wholesalers were acquainted with the internal administration of ATD or with the details of the latter's negotiations leading up to the payments under consideration. Such respondent further points out that the consent order was set aside and the complaint dismissed upon a similar showing as to respondents Southland Distributors, Inc., and James V. Cariddi.

In an affidavit accompanying the motion respondent asserts that at no time did it own any stock in ATD or receive any dividends, that no representative of it was ever a director, officer or employee of ATD, and that neither it nor any of its representatives had any specific knowledge of the internal administration of ATD or the details of the latter's negotiations leading up to the payments under consideration. The Director, Bureau of Restraint of Trade, does not dispute the assertions in the affidavit.

The Commission, in consideration of the petition filed by The S & M Company and the answer thereto by the Director of the Bureau of Restraint of Trade, has determined that in the public interest this matter should be reopened as to The S & M Company, the consent order set aside and the complaint dismissed as to such corporation. Accordingly,

It is ordered, That this matter be, and it hereby is, reopened as to The S & M Company.

It is further ordered, That the order of the Commission issued April 3, 1964, adopting the initial decision of the hearing exam-

iner of June 13, 1962 [65 F.T.C. 71, 77], containing an order to cease and desist, be, and it hereby is, set aside as to respondent The S & M Company and that the complaint as to this respondent be, and it hereby is, dismissed.
