

graphs 4 and 5 of the order should be set aside for the reason that their two bezels in evidence would have met the standards of the Guides must be rejected.

While we conclude that the grounds advanced by respondents for setting aside the two paragraphs of the order are without merit, we do not believe that the obligations imposed upon respondents should be any greater or different than are stated in the Guides for the Watch Industry. Ordinarily, therefore, we would reopen this proceeding for appropriate modification of the order. However, this is not necessary. The Commission has directed that provisions of outstanding cease and desist orders pertaining to subject matter covered by the Guides will not be construed as prohibiting or requiring more than the relevant provisions of the guides. Compliance with the order, as thus *pro tanto* modified, should not place on respondents any unreasonable burden.

On the basis of the foregoing, respondents' petition will be denied.

Commissioner MacIntyre concurred only in the result.

ORDER ON PETITION TO REOPEN PROCEEDING

This matter having come before the Commission upon petition by the two corporate respondents and three individual respondents, filed December 3, 1968, requesting that the proceedings be reopened and Paragraphs 4 and 5 of the final order be set aside; and

The Commission, for the reasons stated in the accompanying opinion, having determined that the request should be denied:

It is ordered, That respondents' petition, filed December 3, 1968, be, and it hereby is, denied.

Commissioner MacIntyre concurring in the result only.

THE STANLEY WORKS

Docket 8760. Order, February 24, 1969

Order denying respondent's motion to withdraw matter from adjudication.

ORDER DENYING MOTION TO WITHDRAW FROM ADJUDICATION

This matter is before the Commission upon the hearing examiner's certification, dated January 15, 1969, of a motion by respondent that the case be withdrawn from adjudication. In the alternative, respondent requests the scheduling of prompt

oral argument on, and the consideration of, respondent's settlement proposal which, together with a supporting memorandum, accompanied this motion. On January 10, 1969, complaint counsel filed their opposition to the request with the examiner.

The motion dated January 6, 1969, was filed pursuant to Section 2.34(d) of the Commission's Rules of Practice, which provides that "in exceptional and unusual circumstances, the Commission may, upon request and for good cause shown, withdraw a matter from adjudication for the purpose of negotiating a settlement by the entry of a consent order."

In the matter before us, respondent, in its motion of January 6, 1969, to the examiner, enumerates four conditions which it considers exceptional and unusual circumstances warranting withdrawal of the matter from adjudication: (1) no settlement offer has previously been considered by the Commission itself and the hearing has not yet commenced; (2) the recent disposition of the Commission's prospective antimerger complaint against Burlington Mills by entry of an order against future acquisitions; (3) the very slight amount of horizontal overlap between respondent and the acquired company; and (4) the proposed offer of settlement would afford sufficient relief even if, after lengthy and expensive litigation, including judicial review, the allegations of the complaint were ultimately sustained.

We fail to see how the first three of these conditions, either singly or in combination, amount to exceptional and unusual circumstances. There is certainly nothing unusual about the first. As to the second, we are unable to agree with the proposition that a consent order dealing with a challenged acquisition in a specific industry should guide the disposition of a challenged acquisition in an entirely different and unrelated industry. Nor is the amount of horizontal overlap between respondent and the acquired company relevant in this context since that goes to the merits of the proceeding. As to the nature of the relief which would be afforded by the proposed offer of settlement, the Commission believes that it should not consider the merits of the proposal submitted, since to do so would be contrary to the policy of its Rules. For these reasons, respondent's motion to withdraw the case from adjudication will be denied.

Due to the absence of exceptional and unusual circumstances, respondent's alternate motion for an opportunity to argue its settlement proposal before the full Commission will similarly be denied. To grant this motion would only unnecessarily delay this proceeding and interfere with its orderly conduct. Denial