

ORDER OF REMAND TO HEARING EXAMINER

Upon consideration of the request for permission to file an interlocutory appeal from the hearing examiner's order of June 3, 1970, filed by respondents on June 4, 1970, and for the reasons set forth in the accompanying opinion,

It is ordered, That this matter be remanded to the hearing examiner for further consideration, without a stay of the hearings.

NATIONAL BISCUIT COMPANY

Docket 5013. Order, July 30, 1970

Order directing appointment of hearing examiner to conduct public hearings on question whether the cease and desist order of February 23, 1944, was a consent order.

ORDER DIRECTING HEARINGS ON QUESTION OF WHETHER ORDER TO CEASE AND DESIST ISSUED IN 1944 WAS A CONSENT ORDER

The United States Court of Appeals for the Fifth Circuit, on August 19, 1968, [400 F.2d 270, (1968)] having issued its opinion and judgment remanding this case to the Commission with the direction to conduct evidentiary hearings upon the question of whether the Commission's original order to cease and desist issued against respondent on February 23, 1944, was a consent order; and

The Court, on June 30, 1970, having issued its order denying the Commission's petition to issue judgment on the merits adversely to the Commission;

It is ordered, That the Director of Hearing Examiners designate an examiner, other than the examiner assigned to conduct the compliance hearings, expeditiously to begin public hearings in accordance with the Court's opinion for the sole and limited purpose of receiving testimony and other evidence concerning the question as to whether the order to cease and desist issued on February 23, 1944, was a consent order. The designated examiner shall preside at and conduct such hearings with all the powers and duties provided in the Commission's Rules of Practice for Adjudicative Proceedings, except that of making and filing an initial decision; and the respondent National Biscuit Company shall have the right of due notice, cross-examination, and production of evidence in rebuttal.

It is further ordered, That upon termination of the hearings, the examiner shall within 30 days thereafter make a report containing his findings and recommendations confined to the issue hereinabove speci-