

Standard's constitutional rights to equal protection under the law.

Standard's (and B.B.D. & O.'s by adoption) factual basis to support its motion consists mainly of its references to the alleged prejudgment of Chairman Kirkpatrick (a matter above considered and of which we have made disposition), and, secondly, its arguments on the merits. The core of its contentions, aside from the assertions as to the Commission's Chairman, is that there are no sufficient grounds for the complaint and that therefore it should be withdrawn. We believe that the only proper way to decide such an issue is by a full trial on the merits. This proceeding, as all Commission proceedings, will be conducted according to the Commission's Rules of Practice and the Administrative Procedure Act. Standard and B.B.D. & O. are thus assured of a full and fair hearing on the charges against them. To examine the merits at this time, or to attempt to do so, would be an irregularity completely unjustified by the circumstances shown. Thus, so far as respondents request a reconsideration of the Commission's basis for the issuance of the complaint and the withdrawal thereof, their motions will be denied.

It is not believed that oral argument before the Commission on the matters raised would serve any useful purpose in the circumstances so those requests will likewise be denied. Accordingly,

It is ordered, That the motions of Standard Oil Company of California and Batten, Barton, Durstine & Osborn, Inc., for reconsideration and disqualification, filed respectively March 16, 1971 and March 17, 1971, be, and they hereby are, denied.

It is further ordered, That respondents' respective requests for the opportunity to appear and argue their position orally before the Commission be, and they hereby are, denied.

Chairman Kirkpatrick not participating.

AMERICAN BRANDS, INC.

Docket 8799. Order, April 14, 1971

Order granting motion requesting permission to file a consent agreement on a non-public basis and holding in abeyance motion to withdraw from adjudication.

ORDER GRANTING MOTION REQUESTING PERMISSION TO FILE A CONSENT AGREEMENT ON A NONPUBLIC BASIS AND HOLDING IN ABEYANCE MOTION TO WITHDRAW FROM ADJUDICATION PURSUANT TO SECTION 2.34(d)

The hearing examiner in this matter having certified to the Commission on February 12, 1971, a joint motion of counsel in support of

the complaint and counsel for respondent requesting permission to file a consent agreement with the Commission on a nonpublic basis and a joint motion to withdraw this matter from adjudication pursuant to Rule 2.34(d); and

The Commission having determined that examination of the Agreement Containing Order to Cease and Desist executed between counsel for respondent and counsel supporting the complaint may materially assist the Commission in deciding whether to withdraw this matter from adjudication:

It is ordered, That the motion requesting permission to file a consent agreement with the Commission on a nonpublic basis be, and it hereby is, granted; and

It is further ordered, That the motion to withdraw from adjudication be held in abeyance until such time as the Commission has examined the consent agreement executed by counsel.

UNION CARBIDE CORPORATION

Docket 8811. Order, April 20, 1971

Order denying request for leave to file interlocutory appeal and rescheduling the evidentiary hearings in hopes that, as a courtesy to the court, such extension of time may facilitate the expeditious conclusion of the collateral suit in the district court.

ORDER RESCHEDULING TRIAL DATE AND DENYING REQUEST TO FILE INTERLOCUTORY APPEAL

This matter is before the Commission upon respondent's request filed April 16, 1971, for leave to file an interlocutory appeal from the hearing examiner's order denying its request to reschedule the hearings and upon its further request for an order postponing the hearing date in this proceeding now set for May 10, 1971.

Respondent asserts, *inter alia*, that it filed, on April 8, 1971, in the U.S. District Court for the District of Columbia (*Union Carbide Corporation v. Federal Trade Commission*, Civil Action No. 714-71) a complaint praying for declaratory and injunctive relief in connection with the hearing examiner's order denying its motion for summary decision and related rulings. It states that on April 9, 1971, it moved the hearing examiner to reschedule the trial date from May 10, 1971, to July 12, 1971, in view of the complaint so filed and that the hearing examiner denied the request. Respondent claims that the hearing should be postponed as a courtesy to the court and to permit the court to determine respondent's legal rights, asking that the paper it filed be considered as its brief in support of its requests.