

INTERLOCUTORY, VACATING AND MISCELLANEOUS ORDERS

GENERAL MILLS, INC.

Docket 8836. Order, January 6, 1972

Order denying complaint counsel's request for permission to appeal hearing examiner's order denying request for permission to oppose respondent's application for some 190 subpoenas *duces tecum*, and other relief.

ORDER DENYING COMPLAINT COUNSEL'S REQUEST FOR PERMISSION TO APPEAL AND OTHER RELIEF

This matter is before the Commission upon the request by complaint counsel, filed December 2, 1971, for permission to appeal from the examiner's order denying their request for permission to oppose respondent's application for some 190 subpoenas *duces tecum*; upon their further request for permission to move to quash such subpoenas; and, finally, upon their motion to quash subpoenas *duces tecum*. Respondent, on December 22, 1971, filed a memorandum in opposition thereto.

Complaint counsel concede that the issuance of the subpoenas is an *ex parte* action. Nevertheless, complaint counsel seek to oppose such issuance on the ground that respondent has failed to make a showing of good cause and on the further ground that the issuance of the subpoenas will have a dilatory effect upon the hearing.

We do not believe it is necessary to decide whether or not complaint counsel has a right, in the circumstances presented, to a review of the hearing examiner's action. As a general rule, matters of discovery such as this are left to the discretion of the hearing examiner. On the record before us there is no basis for a determination that the hearing examiner has abused his discretion in issuing such subpoenas. Accordingly,

It is ordered, That complaint counsel's request for permission to appeal from the hearing examiner's order of November 22, 1971 and for other relief be, and it hereby is, denied.