

*It is further ordered,* That the matter be returned to the hearing examiner for further proceedings and that he reschedule hearings forthwith.

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CHARMCRAFT PUBLISHERS, INC., ET AL.

*Docket C-2089. Order, March 15, 1972*

Order denying petition to modify final order by setting aside the order to cease and desist as to Ira Rubin in his individual capacity.

ORDER DENYING PETITION TO MODIFY FINAL ORDER

This matter is before the Commission on the petition of respondents Charmcraft Publishers, Inc., and Ira F. Rubin, filed February 15, 1972, requesting that this proceeding be reopened for the purpose of setting aside the consent order to cease and desist issued November 12, 1971, as to Ira F. Rubin as an individually-named respondent. To support this request, petitioners have alleged that on February 1, 1971, at a time between the execution of the consent order, on October 28, 1969, and the date that the order was issued, November 12, 1971, Ira Rubin resigned his position as president of corporate respondent, and he has not been an officer of corporate respondent since that time. Petitioners further allege that, while Rubin continued to own approximately 16 percent of corporate respondent's outstanding common stock, and to act as a director of corporate respondent, he no longer controls the policy of the corporate respondent. To the contrary, it is alleged that he frequently takes a minority position relative to the decisions of corporate respondent.

Counsel supporting the complaint has filed an answer to the petition, opposing the modification. Counsel contends that because the individually-named respondent is no longer an officer of corporate respondent is not a reason for modification. Counsel argues that, as a result of the change in his status since the consent order was executed, Ira Rubin is in a better position to evade, perhaps through another entity, the provisions of the order. Therefore, counsel argues that it was proper to name Ira Rubin as an individually-named respondent at the time the order was issued.

The purpose of naming a person as a respondent in an order is to prevent that person, in his individual capacity, from engaging in the future in the practices prohibited by the order. The fact that an individual respondent is no longer an officer of the corporate respondent and may not at the present time formulate, direct and control the