

Administrative Procedure Act and common fairness could hardly constitute unfairness or the appearance of unfairness. On the contrary, this conduct is plainly consistent with my responsibility to not only act fairly, but also to maintain the appearance of fairness.

To extend the "appearance of fairness" requirement to cover a factual situation of the type here involved would be to extend it beyond reason. In the interest of fairness, nothing more is required of the recipient of an *ex parte* communication than that he or she provide all parties with a copy of the communication.

In concluding, I wish to state that I have formed no opinion with respect to matters still pending in this case and, further, that I am fully capable of rendering a completely impartial decision herein. I, therefore, decline to withdraw.

HEAD SKI CO., INC., ET AL.

Docket C-1323. Order, June 9, 1972

Order dismissing Commission order to show cause, because civil penalty proceeding is appropriate avenue for relief in this case.

ORDER DISMISSING ORDER TO SHOW CAUSE

On April 13, 1971, the Commission issued an "Order to Show Cause Why Consent Order to Cease and Desist Issued April 19, 1968 Should Not be Reopened and Modified in Respects Therein," against Head Ski Co. Inc., and Head Ski & Sports Wear, Inc.

Prior to the issuance of the Show Cause Order, the Commission certified to the Attorney General a proposed civil penalty proceeding involving the aforementioned respondents. By stipulation, the civil penalty suit* is proceeding against AMF Incorporated, (AMF) the successor to Head Ski Co. Inc., as the sole party defendant. AMF has also stipulated that it is bound by any final judicial determination of the proceedings in Docket No. C-1323.

On May 16, 1972, counsel supporting the Order to Show Cause filed a motion with the Commission to dismiss the order. AMF Incorporated responded that it has no objection to, and in fact joins in, this motion. Because counsel supporting the order and AMF agree that the Show Cause Order should be dismissed, and because the civil penalty proceeding is also an appropriate avenue for relief in this case, the Commission has determined that the Show Cause Order should be dismissed.

*Consent judgment of \$30,000 entered December 14, 1972, by U.S. District Court for District of Colorado.