

It is ordered, That the Order to Show Cause Why the Proceedings in Docket No. C-1323 Should Not Be Reopened and Modified in Respects Therein, issued April 13, 1971, is dismissed.

IDEAL CEMENT COMPANY

Docket 8678. *Order and Opinion, June 29, 1972*

Order denying respondent's petition to reopen proceedings for the purpose of modifying a Commission order.

OPINION OF THE COMMISSION

Respondent, on May 8, 1972, filed a petition to reopen this proceeding for the purpose of modifying the Commission's order of divestiture issued May 19, 1966 [69 F.T.C. 762], so as to provide that it will have additional time within which to divest Builders Supply Company of Houston (Builders).¹ The new period requested is that "within twelve months of the termination of the proceedings now pending in the United States District Court for the Southern District of Texas, Houston Division, entitled, *American Benefit Life Insurance Company v. Ideal Basic Interest Industries, et al.*"

Respondent asserts in substance that on January 5, 1968, it divested Builders in accordance with the terms of the Commission's order but that subsequent thereto it became necessary for it, in protection of its security interests, to reacquire substantial stock ownership in the firm by foreclosure of a pledge agreement with purchasers. The American Benefit Life litigation, according to respondent, has created uncertainty over its ownership of certain shares of capital stock of Builders and it contends that until the litigation clears the title to the stock in question, there is no way that complete divestiture can be accomplished. Potential purchasers, it states, are not interested in negotiating for a purchase until the American Benefit litigation is resolved. On this ground respondent seeks a new divestiture time period extending 12 months after the resolution of the American Benefit Life litigation.

The Director of the Bureau of Competition disputes respondent's claim that it is unable to divest Builders under the present circum-

¹ This is the second petition to reopen by respondent on the same grounds. The first petition was filed April 12, 1971; the Commission thereafter, on June 10, 1971, issued an order directing a hearing on the issue of whether or not the matter should be reopened. The matter was assigned to a hearing examiner, but respondent, on January 31, 1972, moved to dismiss its petition without prejudice. The hearing examiner granted this request by order filed February 8, 1972.