

Appearances

For the Commission: *L. Barry Costilo, Ira S. Nordlicht, Hugh F. Bangasser, Bradley D. Stam, Edward M. Ricci and Amy R. Richter.*

For the respondents: *Bell, Boyd, Lloyd, Haddad & Burns*, Chicago, Ill.

ORDER DENYING RESPONDENTS' MOTIONS FOR DISCONTINUANCE OR
SUSPENSION OF PROCEEDINGS

Respondent Boise Cascade Corporation filed a motion on July 19, 1974, requesting that the Commission withdraw the instant complaint or, in the alternative, that the proceeding before the administrative law judge be suspended pending the completion of discovery in eleven (11) private treble damage cases allegedly involving the same underlying facts and industry practices as those that are challenged in this proceeding. Respondent also moved for the production of any Commission documents reflecting a Commission policy of avoiding "duplication" of private antitrust actions. The administrative law judge denied the discovery motion and certified the others to the Commission without recommendation on July 31, 1974. The four other respondents subsequently joined in these motions and, on Aug. 6, 1974, these were similarly certified to the Commission.

The law is clear that the Commission is not required to dismiss an antitrust case merely because the same factual situation is in litigation in another forum. *Federal Trade Commission v. Cement Institute*, 333 U.S. 683 (1948). The private actions in question are brought under Section 1 of the Sherman Act, 15 U.S.C. §1, and Section 2(a) of the Clayton Act, U.S.C. §13(a), and it is again well settled that the Federal Trade Commission Act reaches acts and practices that do not rise to the magnitude of Sherman Act violations. *Id.* While the private plaintiffs in those actions seek both damages and injunctive relief, they could of course be settled or otherwise disposed of without providing the kind of relief the Commission might ultimately believe the public interest, as contrasted with the private interests of the litigants in question, requires.

Suspension of this proceeding until discovery has been completed in those private cases would unnecessarily delay the matter and hence is not in the public interest. Accordingly,

It is ordered, That these motions to discontinue or suspend the proceeding and for oral argument be, and they hereby are, denied.
Commissioner Nye not participating.

Complaint

IN THE MATTER OF

BUY-RITE SALES CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND TRUTH IN LENDING ACTS

Docket C-2531. Complaint, Aug. 26, 1974—Decision, Aug. 26, 1974

Consent order requiring a Union City, N. J., seller and distributor of swimming pools and swimming pool accessories, among other things to cease using deceptive sales plans; disparaging merchandise offered for sale; misrepresenting prices and/or savings available to customers; failing to maintain adequate records to substantiate savings claims; failing to disclose to consumers, in connection with the extension of consumer credit such information as is required by Regulation Z of the Truth in Lending Act; failing to include on the face of instruments of indebtedness a notice that all rights and defenses of purchasers are preserved upon sale to third parties.

Appearances

For the Commission: *John A. Crowley and Eileen Lerman.*

For the respondents: *Morton Kramer, Friedman & Friedman, Jersey City, N.J.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and the Truth in Lending Act, and the implementing regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that Buy-Rite Sales Corporation, a corporation, and Thomas Payne and Robert D. Blackburn, Jr., individually and as officers of said corporation, have violated the provisions of said Acts, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Buy-Rite Sales Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 380 Mountain Road, Union City, N. J.

Respondents Thomas Payne and Robert D. Blackburn, Jr. are individuals and officers of said corporation. They formulate, direct and control the policies, acts and practices of the corporate respondent including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.