

IN THE MATTER OF
TYSONS CORNER REGIONAL SHOPPING CENTER, ET
AL.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 8886. Decision, June 10, 1975-Modifying Order, Oct. 21, 1975

Order modifying an earlier order dated June 10, 1975, 85 F.T.C. 987, 40 F.R. 36560, issued against a New York City department store chain by expanding the order with the addition of Paragraph III(C) to permit respondent to negotiate to include agreements in its shopping center leases which would provide that a W&J Sloane furniture specialty store shall be the only tenant in the center primarily engaged in the sale of furniture, home furnishings, and related accessories; and by modifying Paragraph IV(B) to allow respondent to limit distribution of copies of the order to those developers of shopping centers in which respondent is a tenant operating a store containing 50,000 square feet or more.

Appearances

For the Commission: *Anthony Low Joseph, David I. Wilson and Maynard F. Thomson.*

For the respondents: *Irving Scher, Weil, Gotshal & Manges, New York City for City Stores Company.*

ORDER REOPENING PROCEEDING AND MODIFYING ORDER TO
CEASE AND DESIST

By petition dated Oct. 2, 1975, City Stores Company has requested the Commission to modify its order of June 10, 1975, in two respects, described below. The Bureau of Competition has filed an answer objecting to the requested modification.

Respondent requests initially that a new subparagraph III(C) be added which would permit it to negotiate to include agreements in its shopping center leases which would provide that a W&J Sloane furniture specialty store shall be the only tenant in the center primarily engaged in the sale of furniture, home furnishings, and related accessories. (Such clauses would not prevent the competitive sale of these items by tenants such as department stores for whom such sale was not their principal activity.)

We agree with respondent's contention that the agreements it contemplates were not at issue in the litigated case, and under the circumstances the requested narrow modification is appropriate. It should be noted that this change is not intended to signify the Commission's approval of such agreements, but merely to exempt them

from coverage by the order in this matter; in view of the limited scope of the adjudicative proceedings. Given appropriate evidence of anticompetitive consequences the Commission will not hesitate to challenge shopping center lease agreements which provide for exclusive rights of occupancy, (e.g., *People's Drug Stores, Inc.*, File No. 721 0090, agreement containing order to cease and desist; placed on public record for comment, Oct. 5, 1975).

City Stores also requests that the order be modified to require that copies of the order be provided only to developers of shopping centers in which City Stores operates stores larger than 50,000 square feet. Respondent points out that it operates more than 100 stores of size below 50,000 square feet. We agree it is doubtful that the practices condemned by the order are likely to exist as to these stores, and notification of the centers in which they exist would, therefore, seem of slight possible value and might indeed produce confusion as well as modest but unnecessary expense. For the foregoing reasons we will make the second requested modification. This change will not, of course, obviate respondent's obligation to ensure that practices prohibited by the order are not committed in any shopping center in which it is a tenant. Therefore,

It is ordered, That the proceedings be reopened and that the order to cease and desist issued June 10, 1975, be modified by the addition of the following Paragraph III(C):

It is further ordered, That this order shall not prohibit respondent from negotiating to include, including, carrying out, or enforcing an agreement or provision in any agreement which provides that a W&J Sloane furniture specialty store operated by respondent in a shopping center shall be the only tenant in the shopping center primarily engaged in the sale of furniture, home furnishings, and related accessories.

It is further ordered, That Paragraph IV(B) of the order to cease and desist issued June 10, 1975, be modified to read:

Within thirty (30) days after this order becomes final, notify each developer of shopping centers in which respondent is a tenant operating a store containing 50,000 square feet or more of floor space of this order by providing each such developer with a copy thereof by registered certified mail.

IN THE MATTER OF
STEVENS BEDDING WAREHOUSE, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket C-2739. Complaint, Oct. 21, 1975—Decision, Oct. 21, 1975

Consent order requiring fourteen separately incorporated retail stores affiliated with as well as a Chicago, Ill., distributor of home furnishing products, among other things to cease misrepresenting savings available to customers; misrepresenting special or limited offers; misrepresenting merchandise as free; and failing to maintain adequate records.

Appearances

For the Commission: *Anne L. Draznin.*

For the respondents: *Merrill Freed, D'Ancona, Pflaum, Wyatt & Rikind, Chicago, Ill.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Stevens Bedding Warehouse, Inc., Stevens Northern Bedding, Inc., Stevens Devon Bedding, Inc., Stevens Brookfield Bedding, Inc., Stevens Morton Grove Bedding, Inc., Stevens Harlem Bedding, Inc., Stevens Western Bedding, Inc., Stevens Wabash Bedding, Inc., Stevens Madison Bedding, Inc., Stevens Calumet City Bedding, Inc., Stevens Park Forest Bedding, Inc., Stevens Waukegan Bedding, Inc., Stevens Wheeling Bedding, Inc., Stevens Marquette Bedding, Inc., and Stevens Bolingbrook Bedding, Inc., corporations, and Norton Baran, as an officer and stockholder of said corporations, hereinafter referred to as respondents, have violated the provisions of said Act 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. Respondents Stevens Bedding Warehouse, Inc., Stevens Northern Bedding, Inc., Stevens Devon Bedding, Inc., Stevens Brookfield Bedding, Inc., Stevens Morton Grove Bedding, Inc., Stevens Harlem Bedding, Inc., Stevens Western Bedding, Inc., Stevens Wabash Bedding, Inc., Stevens Madison Bedding, Inc., Stevens Calumet City Bedding, Inc., Stevens Park Forest Bedding, Inc., Stevens Waukegan Bedding, Inc., Stevens Wheeling Bedding, Inc., Stevens Marquette Bedding, Inc., Stevens Bolingbrook Bedding, Inc., are corporations