

IN THE MATTER OF
CAVANAGH COMMUNITIES CORPORATION, ET AL.

Docket 9055. Order, Nov. 18, 1975

Denial of petition for extraordinary review and application for stay of time to answer.

Appearances

For the Commission: *Jeffrey Tureck, David Keehn and Pamela B. Stuart.*

For the respondents: *Philip F. Zeidman, Brownstein, Zeidman, Schomer & Chase, Wash., D.C.*

ORDER DENYING PETITION FOR EXTRAORDINARY REVIEW
AND APPLICATION FOR STAY OF TIME TO ANSWER

Respondents have petitioned for "extraordinary review" of the administrative law judge's Oct. 24, 1975, order denying respondents' motion for a more definite statement of those allegations in the complaint with respect to which the Commission may subsequently bring an action for consumer redress pursuant to Section 19 of the Federal Trade Commission Act. Following denial of the motion for a more definite statement, respondents filed an application for a determination by the administrative law judge allowing an interlocutory appeal, which the law judge denied on Nov. 3, 1975.

We have considered respondents' petition and have found nothing therein which would warrant departing from the procedural requirements of Section 3.23 of the Commission's Rules of Practice or directing a certification of the matter pursuant to Section 3.22(a). Accordingly,

It is ordered, That the aforesaid petition for extraordinary review be, and it hereby is, denied.

It is further ordered, That respondents' application for a stay of the time to answer the complaint be, and it hereby is, denied.

IN THE MATTER OF
HARBOR BANANA DISTRIBUTORS, INC.

Docket 8795. Order, Nov. 24, 1975

Time for complying with divestiture order extended until Jan. 28, 1976.

Appearances

For the Commission: *Owen N. Johnson, Jr.*

For the respondents: *Bernard Marcus, Deutsch, Kerrigan & Stiles,*
New Orleans, La.

ORDER EXTENDING TIME FOR COMPLIANCE WITH COMMISSION
ORDER

On Oct. 6, 1975, respondent Harbor Banana Distributors, Inc., (hereinafter "Harbor") filed with the Secretary of the Commission a document entitled: "Harbor's Petition To Reopen the Order of the Federal Trade Commission Served on January 28, 1975." This petition sought a six-month extension of time from July 28, 1975, to Jan. 28, 1976, within which to comply with the order of the Commission that Harbor divest the acquired assets of Charles C. McCann Co. and Tradewinds Produce, Inc. Harbor was required to divest the subject assets by July 28, 1975, pursuant to Paragraph II of the Commission's modified order, which issued on Jan. 3, 1975 [85 F.T.C. 7].

A petition for reopening and modification pursuant to Section 3.72(b)(2) of the Commission's rules is not an appropriate procedure to apply to the Commission for an extension of time within which to comply with a Commission order. Rather, respondent should have sought an extension of time pursuant to Section 4.3(b), and should have made application prior to June 28, 1975, when the time previously granted expired. The Commission notes, however, that respondent's application for an extension of time is supported by a substantial showing of good faith efforts to comply with the Commission's order and is endorsed by the Bureau of Competition. In these circumstances, the Commission has determined to grant the requested extension. Therefore,

It is ordered, That respondent, Harbor Banana Distributors, Inc., may have until Jan. 28, 1976, to comply with the order of the Commission entered on Jan. 3, 1975, requiring that said respondent divest the acquired assets of Charles C. McCann Co. and Tradewinds Produce, Inc., and other relief.