

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.

IN THE MATTER OF

ILLINOIS CENTRAL INDUSTRIES, INC., ET AL.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF THE
CLAYTON ACT

Docket C-2370. Decision, Mar. 26, 1973-Modifying Order, Nov. 24, 1975

Order modifying an earlier order dated Mar. 26, 1973, 82 F.T.C. 1097, 38 F. R. 10707, by changing the compliance reporting requirements for Paragraphs IIE and IIF from 30-day intervals to semi-annual reports on Dec. 15, 1975, and on June 15, 1976, after which only annual reports will be required in lieu of monthly reports with respect to the divestiture order.

Appearances

For the Commission: *K. Keith Thurman, James C. Egan, Jr. and James C. Hamill, Jr.*

For the respondents: *Robert Mitten, Chicago, Ill., Lloyd N. Cutler, Wilmer, Cutler & Pickering, Wash., D.C. and Bertrom M. Kantor, Wachtell, Lipton, Rosen & Katz, New York City.*

ORDER REOPENING AND MODIFYING ORDER TO CEASE AND
DESIST

Respondent, by letter dated Sept. 12, 1975, which will be treated as a petition to reopen this proceeding, has requested that the requirement that it file compliance reports at 30-day intervals for Paragraphs II E and II F, contained in the order to cease and desist issued Mar. 26, 1973 [82 F.T.C. 1097], be modified so as to require semiannual reports on Dec. 15, 1975, and on June 15, 1976, and each calendar year thereafter.

The Commission has duly considered respondent's request and has determined that it should be granted.

It is ordered, That the proceeding be, and it hereby is, reopened.

It is further ordered, That the order to cease and desist be, and it hereby is, modified by requiring that the compliance reporting for Paragraphs II E and II F of the order be changed to a semiannual basis by submitting such reports on Dec. 15, 1975, and on June 15, 1976, and thereafter for each calendar year in lieu of the monthly reports heretofore required with respect to the divestiture provisions of the order.