

IN THE MATTER OF
SIMEON MANAGEMENT CORPORATION, ET AL.

Docket 8996. Order, Dec. 19, 1975

Affidavit of respondent Darrel P. Simpson treated as motion to reopen default decision, and matter remanded to administrative law judge for a hearing and determination of the motion.

Appearances

For the Commission: *Alfred Lindeman and Paul D. Hodge.*

For the respondents: *Marvin Gross, Grayson & Gross, Inc.,* Los Angeles, Calif. for Simeon Management Corporation and Simeons Weight Clinics Foundation. *Pro se* for Medical Weight Loss, Inc. *Robert M. Aran* for Darrel P. Simpson. *David L. Cunningham,* Sausalito, Calif. for Bariatric Medical Clinics Management Corporation. *Leo Shaw,* San Diego, Calif. for Harvey J. Lobelson. *Josef D. Cooper, Cooper and Scarpulla,* San Francisco, Calif. for C.M. Norcal, Inc., HCG Weight Clinics Foundation, Peter J. Marengo, III and Joseph Costa.

ORDER REMANDING MATTER TO ADMINISTRATIVE LAW JUDGE
AS TO ONE RESPONDENT

On Jan. 7, 1975, the administrative law judge filed an initial decision as to three respondents, J. William Byrd, Medical Weight Loss, Inc., and Darrel P. Simpson. The decision was predicated on their failure to answer the complaint.¹ By letters to Charles A. Tobin dated Feb. 25, 1975, and Mar. 13, 1975, counsel for respondent Simpson asserted that Mr. Simpson had not been served with the complaint and that, at the time he was served with the Jan. 7, 1975 initial decision, he was unaware of the contents of the complaint.

On Oct. 7, 1975, the Commission denied Mr. Simpson's request without prejudice to the submission of a motion supported by an affidavit by Mr. Simpson. Mr. Simpson has now filed an affidavit and upon consideration of the affidavits of Mr. Simpson and Alfred Lindeman, Esq., complaint counsel,

It is ordered, That the aforesaid affidavit of Darrel P. Simpson be treated as a motion to reopen the default decision entered in this matter;

It is further ordered, That this matter be remanded to the administrative law judge as to respondent Simpson for a hearing and determination of the aforesaid motion.

¹ The law judge filed an initial decision as to the remaining respondents on June 18, 1975. The Commission heard oral argument on respondents' and complaint counsel's cross-appeals on Oct. 9, 1975.

Order

86 F.T.C.

IN THE MATTER OF

PORTER & DIETSCH, INC., ET AL.

Docket 9047. Order, Dec. 19, 1975

Denial of motion for issuance of supplementary corrective news release.

Appearances

For the Commission: *Dean A. Fournier, Alan H. Melnicoe and William H. Patton.*

For the respondents: *Albert A. Carretta, Browne, Beveridge, DeGrandi and Kline, Wash., D.C. for Porter & Dietsch. For Pay N'Save Corporation, pro se.*

ORDER DENYING MOTION FOR ISSUANCE OF SUPPLEMENTARY
CORRECTIVE NEWS RELEASE

This matter is before us on the motion of respondents Porter & Dietsch, Inc., William H. Fraser, Kelly Ketting Furth, Inc., and Joseph Furth, requesting the issuance of a "supplementary corrective news release." The administrative law judge certified the motion to the Commission on Dec. 4, 1975, together with his recommendation that the motion be denied.

The news release published by the Office of Public Information on Aug. 27, 1975, failed to include the usual caveat that the Commission issues a complaint when it "has reason to believe" that the law has been violated and a proceeding is in the public interest, and that the issuance of a complaint simply marks the beginning of a formal proceeding in which the allegations will be ruled upon after a public hearing. On Oct. 7, 1975, the Commission issued an order [86 F.T.C. 896] granting respondents' prior motion seeking the issuance of a corrective news release. The corrective release issued on Oct. 14, 1975.

Respondents now claim that the corrective release was insufficient and that still another release should issue. They ask that the supplementary release include, *inter alia*, a more elaborate caveat and state that the news release issued by the Seattle Regional Office on Aug. 27, 1975, improperly listed the names of eight drug chains other than respondent Pay N' Save selling the "X-11 Reducing Plan."

Respondents' rights were not violated by the press releases issued on Aug. 27, 1975 and Oct. 14, 1975. Accordingly,

It is ordered, That the aforesaid motion be, and it hereby is, denied.