

Order

87 F.T.C.

IN THE MATTER OF
RSR CORPORATION

Docket 8959. Order, June 22, 1976

Denial of complaint counsel's motion to deem respondent's failure to file timely notice of intention to appeal as waiver of its right to appeal.

Appearances

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

For the respondent: *Wald, Harkrader & Ross, Washington, D.C.*

ORDER DENYING COMPLAINT COUNSEL'S MOTION TO DEEM
RESPONDENT'S FAILURE TO FILE A TIMELY NOTICE OF INTENTION
TO APPEAL AS A WAIVER OF ITS RIGHT TO APPEAL

Complaint counsel have moved for a determination by the Commission that respondent's failure to file a timely notice of intention to appeal from the initial decision, pursuant to Rule 3.52(a), or for an extension of time in which to file a notice, constitutes a waiver of its right to appeal. Respondent asserts that it decided not to appeal from the administrative law judge's determination of liability based on its belief that complaint counsel did not intend to appeal from the law judge's partial divestiture order. Once respondent was served with complaint counsel's notice, and after the filing deadline had passed, it filed its notice of intention to appeal.

Whether or not an adversary intends to challenge an order may well be relevant to a party's decision whether to appeal.* In the present case, respondent should have either filed a "protective" notice or attempted to determine from complaint counsel personally whether they intended to appeal. However, in view of respondent's apparent good faith belief that complaint counsel would not appeal and the fact that the untimeliness of respondent's filing has not delayed the briefing or the argument of the instant appeals, the Commission has determined to deny complaint counsel's motion.

It is so ordered.

* See 9 J. Moore, *Federal Practice*, ¶204.11[1] at 927-28 (2d ed. 1975).

1401

Complaint

IN THE MATTER OF
WALTER KIDDE & COMPANY, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SEC.
7 OF THE CLAYTON ACT

Docket 8957. Complaint, Mar. 20, 1974—Decision, June 29, 1976

Consent order requiring a Clifton, N.J., multimarket manufacturer, among other things to divest itself, within two years, of two of its door lockset product lines obtained through the acquisition of Arrow Lock Corporation. Further, the order requires respondent to license two other product lines and imposes a ten-year ban on acquisitions by respondent in the lockset manufacturing industry without prior F.T.C. approval.

Appearances

For the Commission: *Alfred J. Ferrogari, Harold Brandt, and Sandra Grayson.*

For the respondent: *S. Litvack and K. Newman, Donovan, Leisure, Newton & Irvine, New York City.*

COMPLAINT

The Federal Trade Commission, having reason to believe that respondent Walter Kidde & Company, Inc., a corporation, has violated Section 7 of the Clayton Act, as amended (15 U.S.C. § 18) and that a proceeding in respect thereof would be in the public interest issues its complaint pursuant to Section 11 of the Clayton Act (15 U.S.C. § 22) stating its charges as follows:

I. DEFINITIONS

PARAGRAPH 1. For the purpose of this complaint, the following definitions shall apply:

a. Door locksets are:

- (1) mortise locks and latches (A.N.S.I. series 1000)
- (2) preassembled type locks and latches (A.N.S.I. series 2000)
- (3) integral locks and latches (A.N.S.I. series 3000)
- (4) bored locks and latches (A.N.S.I. series 4000)
- (5) all other mortise, preassembled, integral and bored door locks and latches with functions not included in A.N.S.I. series 1000, 2000, 3000 or 4000 including any such proprietary door locks and latches
- (6) all entrance handle locks with thumb piece with bored type lock mechanism
- (7) series 3 — mortise locks and latch sets; series 8 — cylinder French door locks and locksets; series 121 — cylinder entrance door locks and