

Order

88 F.T.C.

IN THE MATTER OF
SOUNDTRACK CHEVELL INDUSTRIES, INC., ET AL.

Docket 8998. Order, Sept. 21, 1976

Determination that subpoena enforcement proceedings should not be commenced with remand to administrative law judge for issuance of a new subpoena.

Appearances

For the Commission: *Richard H. Gateley* and *John J. Hemrick*.

For the respondents: *Thompson, Knight, Simmons & Bullion*, Dallas, Tex.

ORDER REMANDING MATTER TO ADMINISTRATIVE LAW JUDGE

The administrative law judge has certified complaint counsel's motion that the Commission institute proceedings to enforce a subpoena ad testificandum directing Mr. James Cowan to testify. The subpoena directed Mr. Cowan to appear on July 22, 1976, at a hearing in Dallas, Texas. According to the motion, however, complaint counsel "contacted Mr. Cowan and told him not to appear on July 22, 1976, but that he would be called early the following week should the hearings continue." Complaint counsel assert that they have subsequently been unable to reach the witness.

The Commission has determined that enforcement proceedings should not be commenced unless a new subpoena issues directing Mr. Cowan to appear on a date certain and the witness disobeys the subpoena. Accordingly,

It is ordered, That this matter be, and it hereby is remanded to the administrative law judge for issuance of a new subpoena.

Commissioner Dole did not participate by reason of absence.

IN THE MATTER OF
FOOD TOWN STORES, INC., ET AL.

ORDER DISMISSING COMPLAINT IN REGARD TO ALLEGED VIOLATION
OF SECTION 7 OF THE CLAYTON ACT AND SECTION 5 OF THE
FEDERAL TRADE COMMISSION ACT

Docket 9087. Complaint, Aug. 4, 1976 — Order, Sept. 24, 1976

Order dismissing complaint issued against Food Town Stores, Inc., and Lowe's Food Stores, Inc., two North Carolina retail food stores for alleged violations of Section 7 of the Clayton Act, as amended, and Section 5 of the Federal Trade Commission Act. The complaint has been dismissed because the proposed merger between the two respondents which gave rise to the complaint, has been abandoned.

Appearances

For the Commission: *Ronald A. Bloch* and *Joseph Tasker, Jr.*

For the respondents: *Pro se.*

COMPLAINT

The Federal Trade Commission, having reason to believe that the above named respondents have entered into an agreement which, if consummated, would result in a violation of Section 7 of the Clayton Act, as amended (15 U.S.C. §18), and Section 5 of the Federal Trade Commission Act, as amended (15 U.S.C. §45) and that said agreement therefore constitutes a violation of Section 5(a)(1) of the Federal Trade Commission Act, as amended (15 U.S.C. §45(a)(1)), and having found that a proceeding with respect to said violation is in the public interest, issues its complaint stating its charges as follows:

DEFINITION

PARAGRAPH 1. For the purposes of this complaint, the following definition shall apply: "retail food stores" shall be defined as retail food establishments primarily engaged in selling food for home preparation and consumption.

FOOD TOWN STORES, INC.

PAR. 2. Respondent Food Town Stores, Inc., (Food Town) is a North Carolina corporation with its principal office at Harrison Road, Salisbury, North Carolina.

PAR. 3. In 1975, Food Town operated twenty-nine (29) retail food stores in North Carolina, which were located in the following eleven