

## IN THE MATTER OF

## SPIEGEL, INC.

MODIFIED ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
THE FEDERAL TRADE COMMISSION ACT

*Docket 8990. Complaint, Aug. 7, 1974 — Modified Order, Dec. 27, 1976*

Order modifying an earlier order dated Aug. 18, 1975, 40 F.R. 44317, 86 F.T.C. 425, by limiting the reporting requirements of Paragraphs II and V, as mandated by the Court of Appeals for the Seventh Circuit in its August 9, 1976, decision and judgment, 540 F. 2d 303 (1976), to only those suits instituted in a county other than that where the defendant resided at the commencement of the action, or where he signed the contract sued on.

*Appearances*

For the Commission: *Randall H. Brook* and *Barry E. Barnes*.

For the respondent: *Basil J. Mezines, Stein, Mitchell & Mezines*, Washington, D.C.

## MODIFIED ORDER TO CEASE AND DESIST

Respondent, having filed in the United States Court of Appeals for the Seventh Circuit on October 7, 1975, a petition to review an order to cease and desist issued herein on August 18, 1975; and the Court having rendered its decision and judgment on August 9, 1976, affirming and enforcing the Commission's order with modification of Paragraphs II and V; and the time in which to file a petition for certiorari having expired without either party having filed such a petition;

*Now, therefore, it is hereby ordered*, That the aforesaid order to cease and desist be, and it hereby is, modified in accordance with the decision and judgment of the Court to read as follows:

## ORDER

## I

For purposes of this order, the term "respondent" means "Spiegel, Inc., a corporation, and its successors, assigns, officers, agents, representatives and employees, acting directly or through any corporation, subsidiary, division, or other device, including any collection agency."

## II

*It is ordered*, That respondent, in connection with the collection of retail credit accounts in or affecting commerce, as "commerce" is

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defined in the Federal Trade Commission Act, do forthwith cease and desist from instituting suits except in the county where the defendant resides at the commencement of the action, or in the county where the defendant signed the contract sued upon. This provision shall not be construed to prohibit the institution of suit by respondent against Illinois residents in an Illinois county courthouse which is a reasonable distance from their place of residence. The provision shall not preempt any rule of law which further limits choice of forum or which requires, in actions involving real property or fixtures attached to real property, that suit be instituted in a particular county.

## III

*It is further ordered,* That, where respondent learns subsequent to institution of a suit that the preceding Paragraph II has not been complied with, it shall forthwith terminate the suit and vacate any default judgment entered thereunder. In lieu of such termination, respondent may effect a change of forum to a county permitted by the preceding paragraph, provided that respondent gives defendant notice of such action and opportunity to defend equivalent to that which defendant would receive if a new suit were being instituted. In all cases respondent shall provide defendants with a clear explanation of the action taken and of the defendants' right to appear, answer and defend in the new forum.

## IV

*It is further ordered,* That where respondent terminates a suit or vacates a judgment pursuant to the preceding Paragraph III it shall give notice of such termination or vacation to each "consumer reporting agency," as such term is defined in the Fair Credit Reporting Act (15 U.S.C. §603), which it has been informed or has reason to know has recorded the suit or judgment in its files. Additionally, respondent shall furnish such notice to any other person or organization upon request of the defendant.

## V

*It is further ordered,* That respondent prepare and maintain a summary of suits involving the collection of retail credit accounts by respondent which were instituted in a county other than where the defendant resides, or where the defendant signed the contract sued upon. This summary shall contain each defendant's name, address, and county of residence; county where the contract was signed by the defendant; county where served; date served; date filed; docket

number; name and location of court in which filed; name of plaintiff (if a collection agency suing in its own name); amount claimed; disposition (including garnishment or execution, if any); and explanation of the reason for choice of forum. This summary shall cover all such suits instituted, pending, terminated, or acted upon subsequent to judgment during the two years immediately following the effective date of this order. A copy of this summary shall be submitted to the Federal Trade Commission on a quarterly basis.

## VI

*It is further ordered,* That Spiegel, Inc. shall forthwith deliver a copy of this order to each of its subsidiaries and operating divisions, to each collection agency currently collecting any of Spiegel's retail credit accounts, and to any other collection agency prior to referral to it of any of Spiegel's retail credit accounts. Spiegel, Inc., shall obtain and preserve signed and dated statements from each collection agency, acknowledging receipt of the order and willingness to comply with it.

*It is further ordered,* That respondent shall notify the Commission at least thirty days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

*It is further ordered,* That respondent shall, within sixty days and at the end of six months after the effective date of the order served upon it, file with the Commission a report, in writing, signed by respondent, setting forth in detail the manner and form of its compliance with the order to cease and desist.

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IN THE MATTER OF  
BEATRICE FOODS CO.

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

*Docket 8864. Complaint, Oct. 1, 1971 — Modified Order, Dec. 28, 1976*

Order modifying an earlier order dated July 1, 1975, 40 F.R. 33657, 86 F.T.C. 1, by deleting the words "or sale" from Paragraph IV of the original order, as required by the August 18, 1976, decision and judgment of the Court of Appeals for the Seventh Circuit, 540 F.2d 303 (1976).

*Appearances*

For the Commission: *Randolph B. Sim, William M. Sexton, and Richard L. Williams.*

For the respondent: *John P. Fox, Jr., Chicago, Ill. and John Stack and Terry Grimm, Winston & Strawn, Washington, D.C. and Chicago, Ill.*

MODIFIED ORDER TO CEASE AND DESIST

Respondent, having filed in the United States Court of Appeals for the Seventh Circuit on August 20, 1975, a petition to review an order to cease and desist issued herein on July 1, 1975; and the Court having rendered its decision and judgment on August 18, 1976, affirming and enforcing the Commission's order with a modification of Paragraph IV; and the time in which to file a petition for certiorari having expired without either party having filed such a petition;

*Now, therefore, it is hereby ordered,* That the aforesaid order to cease and desist be, and it hereby is, modified in accordance with the decision and judgment of the Court to read as follows:

ORDER

I

*It is ordered,* That, subject to the prior approval of the Federal Trade Commission, respondent Beatrice, through its officers, directors, agents, representatives, employees, subsidiaries, affiliates, successors and assigns, shall as soon as possible and in any event within one (1) year from the date this order becomes final, divest absolutely and in good faith all assets, rights, property and privileges, tangible and intangible, including all plants, equipment, machinery, raw material reserves, inventory, customer lists, trade names, trademarks, good will and other property of whatever description acquired by Beatrice as a result of its acquisition of Essex Graham Company (hereinafter