

Interlocutory Order

90 F.T.C.

IN THE MATTERS OF

BRISTOL-MYERS COMPANY, ET AL. D. 8917

AMERICAN HOME PRODUCTS CORPORATION, ET AL.

D. 8918

STERLING DRUG INC., ET AL. D. 8919

Dockets 8917, 8918, 8919. Interlocutory Order, Aug. 23, 1977

Order denying motion of complaint counsel for interlocutory review of ruling of Administrative Law Judge which granted respondents access to two reports of interviews with one of respondents' witnesses.

ORDER DENYING APPLICATION FOR INTERLOCUTORY APPEAL

Complaint counsel in these three proceedings apply for interlocutory review of the Administrative Law Judge's ruling granting access, in connection with a joint hearing to take testimony applicable to each case, to two reports, prepared by complaint counsel, of interviews with one of their witnesses. The application follows a ruling dated August 2, 1977, by the Administrative Law Judge determining that the question involved meets the standards for interlocutory review set out in Section 3.23(b) of our Rules of Practice.

This application for review was the subject of an earlier motion, filed July 29, 1977, entitled "Motion For Extension Of Time In Which To File Application For Interlocutory Appeal Under Section 3.23(a)(1)." It was urged that the Administrative Law Judge's order "required the disclosure of Commission records," in the terms of that portion of the Rule; and that characterization seems unassailable on the basis of the facts before us. We denied that motion because the only ground urged for an extension was complaint counsel's desire to seek appeal simultaneously under both subsection (a)(1) and subsection (b). We held that such a procedure:

... would make a nullity of the 5-day time limit contained in subsection (a). Similarly situated applicants could always seek subsection (b) certification as well as a subsection (a) appeal, thereby avoiding the time constraint. Because the time limitation serves the important purpose of reinforcing the ALJ's control over the orderly progress of adjudicative hearings, we cannot countenance such a result.

This consideration applies with equal force to the present motion. Complaint counsel could have made application for review of the order in question under Section 3.23(a)(1), within the five-day period prescribed thereunder. They did not. We cannot now countenance the

circumvention of that time limit by granting an application under Section 3.23(b) for review of the same order.

It is therefore ordered, That the motion is denied.

Complaint

90 F.T.C.

IN THE MATTER OF

HEIRLOOM COLLECTION, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND TRUTH IN LENDING
ACTS

Docket C-2898. Complaint, Aug. 25, 1977 — Decision, Aug. 25, 1977

This consent order, among other things, requires an Indianapolis, Ind. door-to-door seller of china, crystal, cookware, flatware, and linen, to cease violating the Truth in Lending Act by failing to provide to consumers, in connection with the extension of consumer credit, such disclosures as are required by Federal Reserve Board regulations. Further, the order requires the firm to make conspicuous disclosure of customers' refund rights in lay away plan agreements; to retain, without contractual obligations, merchandise until full cash payment is received; and where such purchase is revoked, to make prompt refund of all monies paid toward full cash price.

Appearances

For the Commission: *Richard A. Palewicz.*

For the respondents: *Thomas E. Tobin, Indianapolis, Ind.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Truth in Lending Act and the implementing regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that the parties named in the caption hereof and more particularly described below and sometimes referred to hereinafter as respondents, have violated the provisions of said Acts, and the implementing regulation promulgated under the Truth in Lending Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent The Heirloom Collection, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its principal office and place of business located at 2424 East 55th St., Indianapolis, Indiana.

Respondent Future Enterprises, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana with its principal office and place of business located at 2424 East 55th St., Indianapolis, Indiana.

Respondent Linencrest, Inc. is a corporation organized, existing