

IN THE MATTER OF
ITT CONTINENTAL BAKING COMPANY, INC., ET AL.

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

Docket 8860. Final Order, Oct. 19, 1973—Modified Order, Sept. 16, 1977

This modified order to cease and desist replaces an order dated October 19, 1973, 38 FR 31827, 83 F.T.C. 865, modified at 1105, 39 FR 1260, by adding a defense clause for the Ted Bates & Company, Inc., deleting Paragraphs I and III, and modifying Paragraph IV, to accord with the decision and judgment rendered by the Court of Appeals for the Second Circuit on March 1, 1976, 532 F.2d 207 (1976).

Appearances

For the Commission: *H. Robert Field.*

For the respondents: *Gordon A. Thomas* and *Alan C. Davis*, Rye, New York and *Covington & Burling*, Washington, D.C. for ITT Continental Baking Company, Inc.; *Donald J. Mulvihill*, *Cahill, Gordon, Sonnett, Reindell & Ohl*, Washington, D.C. and *Elhanan C. Stone*, New York City for Ted Bates & Company.

MODIFIED ORDER TO CEASE AND DESIST

Respondents having filed in the United States Court of Appeals for the Second Circuit on November 5, 1973, petitions to review an order to cease and desist issued herein on October 19, 1973; and the Court having rendered its decision and judgment on March 1, 1976, affirming and enforcing the Commission's order with the deletion of Paragraphs I and III, the modification of Paragraph IV, and the addition of a defense clause for respondent Ted Bates & Company, Inc.; and the time in which to file a petition for certiorari having expired without the parties 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 respondent, ITT Continental Baking Company, Inc., a corporation, and respondent, Ted Bates & Company, Inc., a corporation, their successors, assigns and respondents' officers, agents, representatives, and employees, directly or through any

corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any food product, do forthwith cease and desist from:

1. Disseminating, or causing the dissemination of, any advertisement by means of the United States mail or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which represents, directly or by implication, that any such product will contribute to the rapid or proper growth of children by providing dramatic or substantial benefits for such growth or development unless such product, by itself, will, in fact, make a significant contribution to such rapid or proper growth.

2. Disseminating, or causing the dissemination of, any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, purchase of any such product in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains any of the misrepresentations prohibited in Paragraph 1 above.

II

It is further ordered, That respondent Ted Bates & Company, Inc., shall have a defense for false advertising representations under this order where it neither knew nor had reason to know that the representations were false.

III

It is further ordered, That respondents shall forthwith distribute a copy of this order to each of their operating divisions.

IV

It is further ordered, That each respondent notify the Commission, at least thirty (30) days in advance, of any proposed change in such corporate respondents such as dissolution, assignment or sale resulting in 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.

V

It is further ordered, That each respondent shall, within sixty (60) days after service of this order upon it, file with the Commission a report in writing setting forth in detail the manner and form of its compliance with the order to cease and desist.

IN THE MATTER OF
MARCOR, INC., ET AL.

DISMISSAL ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND EQUAL CREDIT
OPPORTUNITY ACTS

Docket 9092. Complaint, Nov. 23, 1976 — Dismissal Order, Sept. 20, 1977

This order dismisses, without prejudice, a complaint issued against a Chicago, Ill. corporation and its department store chain, for alleged violations of Federal Reserve Board regulation and the Federal Trade Commission Act, in connection with the extension of consumer credit. The complaint has been dismissed because newly-finalized amendments to Federal Reserve Board regulation necessitate further investigation as to firm's compliance with the amendments, and proceeding on the basis of the present complaint would be against the public interest.

Appearances

For the Commission: *Lewis H. Goldfarb.*

For the respondents: *Patrick Head* and *Karl J. Bemserderfer*, Chicago, Ill. *Joseph L. Gibson* and *Spencer H. Heine*, Washington, D.C.

COMPLAINT

Pursuant to the provisions of the Equal Credit Opportunity Act, as amended, and its implementing regulation, Regulation B, and the Federal Trade Commission Act, the Federal Trade Commission, has reason to believe that Marcor Inc., a corporation, and Montgomery Ward and Company Inc., a corporation, ("respondents,") have violated the provisions of said Acts and regulation. It appears to the Commission that a proceeding by it in respect thereof would be in the public interest. The Commission hereby issues its complaint stating its charges as follows:

PARAGRAPH 1. Respondent Marcor, Inc. ("Marcor") is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business and office located at 619 West Chicago Ave., Chicago, Illinois.

Marcor wholly owns respondent Montgomery Ward and Company Inc. and formulates, controls and directs its policies, acts and practices, including the acts and practices set forth in Paragraphs Two through Six.

Respondent Montgomery Ward and Company, Incorporated, ("Montgomery Ward") a wholly-owned subsidiary of Marcor, is a