

Interlocutory Order

90 F.T.C.

IN THE MATTER OF
CENTURY 21 COMMODORE PLAZA, INC., ET AL.

Docket 9088. Interlocutory Order, Oct. 19, 1977

Denial of application to review ALJ's order denying a motion to intervene.

ORDER DENYING APPLICATION TO REVIEW ORDER DENYING
MOTION TO INTERVENE

On September 19, 1977 Administrative Law Judge Lewis F. Parker denied applicant David Unterberg's motion to intervene in the above-captioned matter for the reason that he failed to present facts sufficient to support his motion.¹ Mr. Unterberg has applied to the Commission for review of that order.

Section 3.23(b) of the Commission's Rules of Practice provide that in appeals from a determination by an Administrative Law Judge the moving party is required to attach the "portions of the record on which the moving party is relying." Nothing in the papers submitted by applicant demonstrates that the ALJ erred in finding that the movant had failed to present facts that satisfied the standard for intervention.

It is ordered, That Mr. Unterberg's application for review of the order denying his motion to intervene be, and hereby is, denied.

¹ "[B]efore the Commission will allow intervention into its proceedings, it must be demonstrated that (1) the persons seeking such intervention desire to raise *substantial* issues of law or fact which would not otherwise be properly raised or argued, and (2) the issues thus raised are of sufficient importance and immediacy to warrant an additional expenditure of the Commission's limited resources on a necessarily longer more complicated proceeding in that case, when considered in light of other important matters pending before the Commission." *Firestone Tire & Rubber Co.*, 77 F.T.C. 1666, 1669 (1970).

IN THE MATTER OF
THE RAYMOND LEE ORGANIZATION, INC., ET AL.

Docket 9045. Interlocutory Order, Oct. 21, 1977

Denial of respondents' request for extension of time for filing answer to motion for leave to file amicus curiae brief.

ORDER DENYING RESPONDENT'S REQUEST FOR AN EXTENSION
OF TIME FOR FILING AN ANSWER

By motion filed October 4, 1977, Mr. Norman Axe, attorney representing various persons and non-profit entities, requests that the Commission grant leave to file a brief of an amicus curiae in the above-captioned matter. On September 30, 1977, pursuant to Commission Rules 3.52(h) and 4.4(b), Mr. Axe, sending by mail, gave notice to the interested parties.

By letter received October 18, 1977, Mr. Malcolm I. Lewin, attorney representing The Raymond Lee Organization, Inc. and Raymond Lee, requests the Commission to grant an extension of time for filing an answer to the above motion for leave to file a brief of an amicus curiae.

Assuming arguendo that under Commission Rule 3.52(h) respondent has a right to file an answer to a motion requesting leave to file a brief of an amicus curiae, the specified time within which the answer should have been forthcoming has expired.¹ Moreover, the Commission finds nothing in respondent's letter of October 18, 1977 that would justify the granting of such an extension of time. Accordingly,

It is ordered, That said motion be, and it hereby is, denied.

¹ Pursuant to Rule 4.4(c)(1), service was complete on October 7, 1977, because Mr. Malcolm I. Lewin has indicated to the Secretary's Office that the Post Office delivered Mr. Norman Axe's motion on that day. Commission Rule 3.22(c) requires that within 10 days after service of any written motion, the opposing party shall answer. In measuring this specified period, intervening Saturdays, Sundays and national holidays are counted because, as Rule 4.3(a) provides, the period within which one must answer exceeds seven days. Therefore, even if measured from this date, the specified period expired on Wednesday, October 19, 1977.