

IN THE MATTER OF
PERPETUAL FEDERAL SAVINGS & LOAN ASSOCIATION

Docket 9083. Interlocutory Order, Nov. 25, 1977

Denial of motion for withdrawal or disqualification of Chairman Pertschuk from participation in the decision of this matter on ground of prejudgment.

ORDER DENYING MOTION TO DISQUALIFY

Respondent Perpetual Federal Savings & Loan Association on July 13, 1977, filed a motion asking alternatively that Chairman Pertschuk withdraw from participation in the decision of this matter or that he be disqualified. Respondent urged, as ground for the motion, that prejudgment of this case is evidenced by a letter sent by the Chairman to the Chairman of the Consumer Subcommittee of the Senate Committee on Commerce, Science and Transportation, in connection with the Subcommittee's consideration of legislation to exclude savings and loan associations from the Commission's jurisdiction.

By memorandum of September 15, 1977, Chairman Pertschuk dealt with the first branch of this motion, declining to withdraw and stating his reasons therefor. We have considered respondent's motion, complaint counsel's opposition, and Chairman Pertschuk's memorandum, and have determined that the motion for disqualification should be denied for the reasons stated by the Chairman.

In particular, none of the authorities cited by respondent stands for the proposition that a pre-existing view on issues of law (as distinct from fact) on the part of a Commissioner, the most that could be made out here, is a ground for disqualification. To adopt this proposition would be not only to require each Commissioner (or, presumably, each judge) to decide any particular issue of law only once in his or her tenure, but to put in question the whole principle of *stare decisis* on the basis of which our judicial system has evolved. If it were true that each litigant is entitled to appear before a decisionmaker devoid of preconceptions as to the law applicable to his case there would be no "law" in the sense that we understand it. That a decisionmaker forms a preconception on a novel issue of law out of an amalgam of rules applicable to analogous cases is no more offensive to this system than is reliance on a decision squarely in point.

It is therefore ordered, That respondent's motion be, and it hereby is, denied.

Modified Order

90 F.T.C.

IN THE MATTER OF

CHRYSLER CORPORATION

MODIFIED ORDER, IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 8995. Final Order, Apr. 13, 1976 — Modified Order, Dec. 5, 1977*

This modified order to cease and desist replaces an earlier order issued on April 13, 1976, 41 FR 20653, 87 F.T.C. 719. In accordance with the decision and judgment rendered by the Court of Appeals for the District of Columbia on July 6, 1977, 561 F.2d 357 (1977), this order deletes Paragraphs 2 and 3 of the original order, which pertain to performance tests and results.

Appearances

For the Commission: *H. Robert Field, Carlton C. Eastlake and Richard Bloomfield.*

For the respondent: *Walter B. Maher and Hogan & Hartson, Washington, D. C.*

MODIFIED ORDER TO CEASE AND DESIST

Respondent having filed in the United States Court of Appeals for the District of Columbia on June 30, 1976, a petition to review an order to cease and desist issued on April 13, 1976 [87 F.T.C. 719]; and the Court having rendered its decision and judgment on July 6, 1977, affirming and enforcing the Commission's order with the deletion of Paragraphs 2 and 3, and respondent not having filed a petition for certiorari within the time permitted by law;

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

It is ordered, That respondent Chrysler Corporation and its officers, representatives, and agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of products sold by the respondent in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, by reference to a test or tests, that any of respondent's automobiles are superior with