

Interlocutory Order

IN THE MATTER OF

BENEFICIAL CORPORATION, ET AL.

Docket 8922. Interlocutory Order, Dec. 20, 1977

Order rejecting proposed form of order submitted by respondents and directing the submission, by both parties, of a new form of order within sixty days. If no joint proposal is submitted, parties are directed to submit, within sixty days, briefs fully addressing the issues raised in the Commission's order of July 15, 1977.

In response to our order of July 15, 1977, calling for briefs directed to issues presented by the order of the United States Court of Appeals for the Third Circuit remanding this matter, respondents have submitted a proposed order and sample advertisement which is not opposed by complaint counsel. We have examined the proposed order and sample advertisement and find them deficient in several respects. First, only a proposed print advertisement has been submitted with the proffered order as an example of what the order would permit, although the record establishes that respondents use radio and television advertising extensively. It is not at all clear how the parties believe the order would apply to such advertising.

Moreover, our review of the proposed advertisement does not convince us that the deception that we earlier found in respondents' use of the "instant tax refund" slogan would be cured. The proposed advertisement still suggests that there is *some* relationship (even if not a dependency) between the loan and the amount of the expected refund. In fact, as we have previously held, and the court of appeals has affirmed, the eligibility for, or amount of, any income tax refund is entirely unrelated to an applicant's eligibility for, or the amounts of, any loan.

Under the circumstances, we believe that the best course is to conduct further proceedings.

It is ordered, That the parties submit, within 60 days, such other order (if any) as they may jointly propose. Any such proposed order shall be accompanied by proposed advertisements for the media customarily used by respondents and by a detailed proposed protocol for objective consumer perception surveys of those and other representative advertisements. The proposed protocol should be designed to test whether the proposed advertisements cure the deception which we previously found in respondents' use of the "instant tax refund" slogan.

It is further ordered, That if the parties do not submit such a joint

proposal, they submit within 60 days briefs as required by our order of July 15, 1977, fully addressing the issues raised in that order.

IN THE MATTER OF
JIM WALTER CORPORATION

ORDER, OPINION, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECTION 7 OF THE CLAYTON ACT

Docket 8986. Complaint, July 29, 1974 — Final Order, Dec. 20, 1977

This order, among other things, requires a Tampa, Fla. manufacturer of shell housing and construction material to divest itself within one year of all interests in the Philip Carey Company and Carey-Canadian Mines, Ltd., divisions of Panacon Corporation; and prohibits the firm from acquiring for a period of ten years, any interest in a manufacturer, seller, or distributor of asphalt or tar roofing products without prior Commission approval.

Appearances

For the Commission: *Joseph J. O'Malley, Peter W. Kitson, Harold J. Lamboley, Jr. and Gilbert E. Geldon.*

For the respondent: *W. Donald McSweeney, William A. Montgomery and Susan A. Henderson, Schiff, Hardin & Waite, Chicago, Illinois.*

COMPLAINT

In the exercise of authority vested in it by the Federal Trade Commission Act, the Federal Trade Commission, having reason to believe that respondent, Jim Walter Corporation, a corporation, has violated Section 7 of the Clayton Act (15 U.S.C. 18), and that a proceeding in respect thereof would be in the public interest, issues this complaint charging as follows:

I. DEFINITIONS

For the purpose of construing this complaint the following definitions shall be controlling:

(a) "Asphalt and tar roofing" shall include both built-up roofing and shingles which are made from a dry felt, asbestos, or fiber glass base, saturated or coated with asphalt flux or coal tar pitch.

(b) "Built-up roofing" includes both tar and asphalt multi-layer, flat-topped roofing. This type of roof covering normally consists of from two to four plies of roll roofing sheets "built-up" with alternating coats of asphalt or coal tar pitch. [2]

(c) "Saturated felts" consist of a dry felt base, made from rags, wood, and other cellulose fibers, impregnated with an asphalt or tar saturant.

(d) "Roll roofing" is made from a saturated felt by applying an