

IN THE MATTER OF

KELLOGG COMPANY, ET AL.

Docket 8883. Interlocutory Order, Jan. 29, 1979

Order denying motion to disqualify FTC Chairman and each other Commissioner advised in advance of proposal to retain ALJ on contract basis.

ORDER

On December 7, 1978, General Foods Corporation filed a motion to disqualify Chairman Pertschuk and each other Commissioner advised in advance of the proposal to retain Judge Hinkes on a contract basis. On January 11, 1979, the Chairman responded to General Foods' motion and refused to disqualify himself. That response was placed on the public docket and served on the parties.

In responding to General Foods' alternative motion that the Commission itself determine whether the Chairman should be disqualified from participating in these proceedings,¹ we see no reason to differ from the result reached by the Chairman. The Chairman's actions were undertaken pursuant to his administrative authority under Reorganization Plan No. 8 of 1950, 64 Stat. 1264. The documents which have been released, and the Chairman's statement of December 8, clearly indicate that his actions in this matter were taken without reference to the merits of the case. Under the circumstances we do not believe that any bias, prejudgment or apparent unfairness has been demonstrated. *Cinderella Career & Finishing Schools, Inc. v. FTC*, 425 F.2d 583, 591 (D.C. Cir. 1970); *Amos Treat & Co. v. SEC*, 306 F.2d 260, 267 (D.C. Cir. 1962).

As to General Foods' motion to disqualify each of the Commissioners who had advance knowledge of the Hinkes contract, the record is clear that no such Commissioner was so advised. Accordingly,

It is ordered, That the motion of General Foods Corporation to disqualify FTC Chairman Michael Pertschuk and each other Commissioner advised in advance of the proposal to retain Judge Hinkes on a contract basis be, and the same hereby is, denied.

Chairman Pertschuk and Commissioner Pitofsky did not participate.

¹ General Foods argues that the Chairman should be disqualified not only from participating in any decision with respect to the Hinkes contract, but also from participating in any future deliberations in this case.

Complaint

93 F.T.C.

IN THE MATTER OF
HARPER SALES, INC., ET AL.

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

Docket 9070. Complaint, Dec. 19, 1975 — Decision, Feb. 1, 1979

This consent order, among other things, requires a Rush, N.Y. mobile home dealer and its affiliates to cease conditioning the leasing or renting of space in their trailer parks to the purchase of mobile homes and accessories from Harper Sales, Inc. or other designated sources.

Appearances

For the Commission: *Henry R. Whitlock* and *Herbert S. Forsmith*.
For the respondents: *John Stuart Smith, Nixon, Hargrave, Devans & Doyle*, Rochester, N.Y.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties identified in the caption hereof, and more particularly described and referred to hereinafter as respondents, have violated and are now violating the provisions of Section 5 of the Federal Trade Commission Act, as amended, and it appearing that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint stating its charges as follows:

I. DEFINITIONS

PARAGRAPH 1. For the purposes of this complaint, the following definitions shall apply:

(a) "Mobile home" means a transportable unit or units designed to be placed without a permanent foundation, connected to utilities, and used or capable of being used for year-round living.

(b) "Mobile home park" means a tract of land utilized specifically for the purpose of renting sites for the placement of mobile homes for residential purposes and in which utility connections and various communal services are commonly provided.

II. RESPONDENTS

PAR. 2. Respondent Harper Sales, Inc. is a corporation organized under the laws of the State of New York with its principal office located at 7500 West Henrietta Road, Rush, New York.

PAR. 3. Respondent Edgewood Park Estates, Inc. is a corporation