

IN THE MATTER OF  
PERPETUAL FEDERAL SAVINGS & LOAN ASSOCIATION

ORDER IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF THE  
FEDERAL TRADE COMMISSION ACT

*Docket 9083. Decision, Dec. 6, 1977 — Order, Sept. 6, 1979*

This order withdraws a Commission order issued December 6, 1977, 90 F.T.C. 608, against a Washington, D.C. savings and loan association for having as directors individuals who simultaneously serve as directors of competitive financial institutions. Further, the complaint in this matter has been dismissed.

ORDER

On December 6, 1977 the Commission held that respondent Perpetual Federal Savings & Loan Association ("Perpetual") had violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by having on its board of directors individuals who served simultaneously as directors of competing commercial banks. 90 F.T.C. 608, 648. Accordingly, the Commission issued a Final Order requiring Perpetual to cease and desist from having any individual serve as a director while at the same time serving as a director of any corporation engaged in the provision of any financial service in competition with Perpetual. 90 F.T.C. at 665-66. Perpetual filed a petition for review.

On November 14, 1978, this matter was remanded to the Commission by the United States Court of Appeals for the Fourth Circuit for reconsideration in light of the Financial Institutions Regulatory and Interest Rate Control Act of 1978, Pub. Law 95-630, 92 Stat. 3641 (Nov. 10, 1978). Title II of that Act, the Depository Institution Management Interlocks Act of 1978, 92 Stat. 3672, codified at 12 U.S.C. 3201, *et seq.*, prohibits a range of interlocks between savings and loan associations and competing banks. Interlocks like those at issue in this proceeding are exempted from the Act's proscriptions for a period of ten years from the Act's enactment.

In the limited rebriefing that followed, both Perpetual and complaint counsel concurred that the December 6, 1977, Final Order should be withdrawn and the complaint dismissed. Complaint counsel construed Section 206 of Title II as impliedly exempting interlocks like Perpetual's from the reach of the Commission for ten years. According to Perpetual, passage of the Act confirmed that Commission jurisdiction over Perpetual's director interlocks was lacking, that its conduct did not violate the Federal Trade Commis-

sion Act and that its conduct would not constitute such a violation even when ten years have elapsed after Title II's enactment. Subsequent events have made it unnecessary to address these contentions.

Since the submission of briefs by the parties, a new law has been enacted, Pub. Law 96-37 (July 23, 1979) (to be codified at 15 U.S.C. 45, 46, 57), that amends Section 5 of the Federal Trade Commission Act to exempt savings and loan associations such as Perpetual from the jurisdiction of the Commission. Accordingly,

*It is ordered,* That the Commission's Final Order of December 6, 1977 be withdrawn and the complaint dismissed.

IN THE MATTER OF  
AMERICAN DENTAL ASSOCIATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

*Docket 9093. Complaint, Jan. 4, 1977 — Decision, Sept. 6, 1979*

This consent order, among other things, provides that on entry of a final adjudicated order in the *American Medical Association (AMA)* case, four dental associations will be bound to a similar order which will be issued against them by the Commission. During the period preceding final resolution of the *AMA* matter, respondents are prohibited from restricting or declaring unethical any form of their members' advertising or solicitation of business which is not false or misleading. Additionally, the dental associations are required to print a statement in their code of ethics which advises members that advertising or solicitation of patients and business shall not be considered unethical or improper.

*Appearances*

For the Commission: *L. Barry Costilo, Daniel R. Barney, Bonita L. Maplethorpe and Ann Malester.*

For the respondents: *Peter M. Sfikas, Michael P. Tone and Clay H. Phillips, Peterson, Ross, Schloerb & Seidel, Chicago, Ill. for American Dental Association, Joseph B. Carney and Jerry R. Jenkins, Baker & Daniels, Indianapolis, Ind. for Indiana Dental Association and Indianapolis District Dental Society, and John P. Ackerly, III and Stephen A. Northup, Mays, Valentine, Davenport & Moore, Richmond, Va. for Virginia Dental Association and Northern Virginia Dental Society.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act (15 U.S.C. 41, et seq.) and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that respondents American Dental Association (hereinafter "ADA"), Indiana Dental Association (hereinafter "IDA"), Indianapolis District Dental Society (hereinafter "IDDS"), Virginia Dental Association (hereinafter "VDA"), and Northern Virginia Dental Society (hereinafter "NVDS") have violated the provisions of Section 5 of the Federal Trade Commission Act and that a proceeding in respect thereof would be in the public interest, issues its complaint stating its charges as follows:

PARAGRAPH 1. Respondent American Dental Association is an