

Interlocutory Order

94 F.T.C.

IN THE MATTER OF

INDIANA FEDERATION OF DENTISTS

Docket 9118. Interlocutory Order, Oct. 16, 1979

ORDER GRANTING INTERVENTION TO STATE OF INDIANA

On August 17, 1979, the United States District Court for the Southern District of Indiana issued a judgment ordering the Commission to allow the State of Indiana, by its Attorney General, to intervene in the above-captioned proceeding. In compliance with that judgment we reverse our earlier denial¹ of intervention.

It is ordered, That the Commission's order of February 5, 1979, is reversed and that the application for intervention by the State of Indiana be, and hereby is, granted.

¹ Order Denying Petition of State of Indiana to Intervene, Dkt. 9118 (February 5, 1979) [93 F.T.C. 231].

IN THE MATTER OF
HASTINGS MANUFACTURING COMPANY

Docket 4437. Interlocutory Order, Oct. 22, 1979

ORDER DENYING RESPONDENT'S REQUEST FOR CONFIDENTIAL
TREATMENT OF ITS PETITION TO REOPEN AND RELATED
FILINGS

At the close of its Reply filed on July 31, 1979, respondent Hastings Manufacturing Company requested that its petition to reopen this proceeding and related filings be kept confidential. It argued that the filings "outline areas of vulnerability in Hastings' ability to compete, i.e., the inability to offer a stock lift," and that such information, if made public, could be used by Hastings' competitors to "seriously injure" the firm. The Commission immediately placed the documents *in camera* pending consideration of Hastings' request. On September 6, 1979, the Commission ordered the parties to rebrief the question, *inter alia*, of what legal or factual basis might exist for granting the confidentiality request. Hastings filed additional briefs pursuant to this order on October 1 and 15, 1979, but in them declined to elaborate on the conclusory rationale for confidential treatment that it had advanced earlier.

The Commission's Rules of Practice and the case law establish a strong presumption in favor of opening adjudicative proceedings to the public and making pleadings, exhibits, and other papers in such proceedings available for public inspection. 16 C.F.R. 3.41(a), 4.9(b)(4); *E. Griffiths Hughes, Inc. v. FTC*, 63 F.2d 362, 363-64 (D.C. Cir. 1933); *H. P. Hood & Sons, Inc.*, 58 F.T.C. 1184, 1186 (1961). The presumption can be overcome, and information placed *in camera*, "only in those unusual and exceptional circumstances when good cause is found on the record." 16 C.F.R. 3.45(b).

Respondent Hastings has failed to establish the presence of such circumstances here. The information that Hastings seeks to protect — namely, references to its inability to offer stock lifts to its customers — has long been a matter of public record. Hastings' inability to offer stock lifts is the direct result of a Commission cease-and-desist order specifically prohibiting the practice. The public has continuously had access to that order for over 30 years through the official published reports of the Commission and the Court of Appeals. *Hastings Manufacturing Co.*, 39 F.T.C. 498 (1944), *aff'd*, 153 F.2d 253 (6th Cir. 1946). Indeed, Hastings has not even attempted to argue that placing the petition and related filings on the public record would disclose a theretofore confidential fact. Instead, Hast-