

FEDERAL TRADE COMMISSION DECISIONS

Findings, Opinions and Orders

IN THE MATTER OF

EQUIFAX INC. (FORMERLY RETAIL CREDIT CO.)

DISMISSAL ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF
THE CLAYTON ACT

Docket 8920. Final Order, July 7, 1978—Dismissal Order, July 14, 1981*

On remand from the U.S. Court of Appeals, Ninth Circuit, this order dismisses the March 9, 1978 complaint against a collector and seller of consumer credit information. The Commission concluded that further proceedings would not be in the public interest.

Appearances

For the Commission: *Joseph S. Brownman.*

For the respondent: *J. Wallace Adair* and *Francis A. O'Brien*,
Howrey & Simon, Washington, D.C.

FINAL ORDER

This matter having been remanded to the Commission by the United States Court of Appeals for the Ninth Circuit, and the Commission having concluded that further proceedings would not be in the public interest,

It is ordered, That the complaint be dismissed.

By the Commission. Commissioner Dixon dissented.

* Complaint, Initial Decision, Opinion of the Commission and Final Order originally published at 92 F.T.C. 1.

Interlocutory Order

98 F.T.C.

IN THE MATTER OF
INTERNATIONAL HARVESTER COMPANY

Docket 9147. Interlocutory Order, July 15, 1981

ORDER DENYING MOTION FOR STAY

On June 25, 1981, Administrative Law Judge Mathias certified to the Commission the question whether further proceedings in this matter are in the public interest.

On June 30, 1981, Judge Mathias refused respondent International Harvester Company's ("IH") request for a stay of further proceedings pending a Commission ruling on the certified question. On July 2, 1981, IH filed a motion for a stay with the Commission pursuant to Section 3.23(c) of the Commission's Rules of Practice. Complaint counsel opposed the motion for a stay in an answer filed on July 7, 1981. On July 9, 1981, IH moved for leave to file, and submitted, a reply memorandum to complaint counsel's answer. IH's reply memorandum is accepted. Because the active pretrial schedule begins on July 13, 1981, IH asks that the Commission grant a stay at the earliest possible time in order to avoid potentially unnecessary costs of litigation.

Section 3.23(c) of the Commission's Rules of Practice provides that an application for review and appeal shall not stay proceedings unless the ALJ or the Commission shall so order. This provision presumes that proceedings will continue unless a stay is appropriate in the opinion of the ALJ or the Commission. An important purpose of this provision is to facilitate discovery and trial with a minimum of interruption due to interlocutory issues that may arise. Generally speaking, the public interest in expeditious disposition of adjudicatory matters disfavors interlocutory suspensions of proceedings except in extraordinary circumstances. In addition, responsibility for resolving procedural questions of this type in adjudicatory matters generally has been left by the Commission to the sound discretion of the administrative law judges. The Commission does not lightly disturb their rulings on the course and conduct of the proceedings over which they preside.

IH argues that Judge Mathias' order places in serious issue whether this case is any longer in the public interest. In light of this development, IH argues that it would be wasteful to incur further costs of litigation during the pendency of Judge Mathias' order before the Commission. The Commission is in no position yet to judge the validity of the real premise for IH's motion for a stay, namely, that a decision to withdraw this matter from litigation is a likely