

Interlocutory Order

100 F.T.C.

IN THE MATTER OF

BOISE CASCADE CORPORATION

*Docket 9133. Interlocutory Order, Oct. 15, 1982*ORDER DIRECTING GENERAL COUNSEL TO COMMENCE COURT
ENFORCEMENT OF SUBPOENA DUCES TECUM

On August 10, 1982, the administrative law judge certified to the Commission the request of respondent Boise Cascade Corporation for enforcement of specifications 8, 11-15, 18 and 19 of a subpoena issued by the ALJ on March 1, 1982, to third party Northwest Wholesale Stationers, Inc. Boise is charged in this case with having induced or received discriminatory discounts from office product suppliers in violation of Section 2(f) of the Clayton Act, as amended by the Robinson-Patman Act. Boise resells office supplies at both the wholesale and the retail levels. Northwest is a cooperative that purchases at wholesale from manufacturers and resells to its retail office supply members and to other, nonmember retail office supply outlets. Boise claims to compete with Northwest in its sales to nonmember dealers at wholesale and with Northwest's members in their sales at retail to end users. The subpoena issued by the ALJ pertains to the prices Northwest has paid to its suppliers, as well as the prices it has charged to its members and customers. The information is relevant, Boise argues, to its defense on both the issues of discrimination and injury to competition.

The Commission has consistently held that an ALJ has wide discretion in discovery matters, and his or her determinations should be reversed only for a clear abuse of discretion. *E.g., General Foods Corp.*, 95 F.T.C. 306 (1980); *Warner-Lambert Co.*, 83 F.T.C. 485 (1973). The record of pleadings and orders regarding the issuance and enforcement of the subpoena in issue here demonstrates that the ALJ has in fact carefully and reasonably exercised his authority. The subpoena first requested by Boise was substantially redrafted at his insistence to eliminate unnecessary specifications, narrow the relevant time period for many specifications, and otherwise minimize the burden on Northwest of complying. He thoughtfully considered Northwest's motion to quash and its response to Boise's motion for enforcement. He has issued a protective order that will cover confidential documents produced or made available for inspection by Northwest. There has been no abuse of discretion here. Accordingly,

It is ordered, That the General Counsel shall seek court enforcement of specifications 8, 11-15, 18, and 19 of the subpoena duces

tecum issued to Northwest on March 1, 1982, unless Northwest agrees, within ten days of receipt of this order, to produce the subpoenaed documents at its place of business for inspection and copying by Boise's attorneys.

Modifying Order

100 F.T.C.

IN THE MATTER OF
EQUIFAX INC.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND FAIR CREDIT REPORTING ACTS

Docket 8954. Final Order, Dec. 15, 1980—Modified Order, Oct. 18, 1982

The FTC, in accordance with a decision rendered by the Court of Appeals for the Eleventh Circuit on June 18, 1982, has modified its Final Order In the Matter of Equifax Inc., issued on Dec. 15, 1980 (96 F.T.C. 844). The modified order, effective Oct. 18, 1982, deletes Paragraphs C and D of Part I of the Order, eliminating references concerning the amount of adverse information the company's employees generate about consumers.

MODIFIED ORDER TO CEASE AND DESIST

Respondent having filed in what is now the United States Court of Appeals for the Eleventh Circuit a petition for review of the Commission's cease and desist order issued on December 15, 1980; and the Court having rendered its decision setting aside in part the Commission's order:

Now, therefore, it is hereby ordered, That the aforesaid order to cease and desist be, and it hereby is, modified in accordance with the decision and judgment of the Court of Appeals to read:

I

It is ordered, That respondent Equifax Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the collection, preparation, assembly, sale, or distribution of consumer reports, investigative consumer reports, and files, as "consumer report," "investigative consumer report," and "file" are defined in Section 603(d), (e) and (g) of the Fair Credit Reporting Act (Pub. Law No. 91-508, 15 U.S.C. 1681 *et seq.*) ("the Act") and interpreted in the opinion of the Commission which accompanied the cease and desist order issued on December 15, 1980 (except credit reports prepared by Credit Bureau, Inc. of Georgia, Credit Bureau of Montreal, Ltd., and Credit Marketing Services), shall cease and desist from:

A. Representing, directly or by implication, during the preparation of any report, that investigative personnel employed by Equifax are agents or employees of the company to which the consumer who is the subject of the report has applied for a benefit.