

Modifying Order

102 F.T.C.

IN THE MATTER OF
DAMON CORPORATION

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

Docket C-2916. Consent Order, Feb. 23, 1978—Modifying Order, Oct. 14, 1983

The Federal Trade Commission has modified Part II of the order issued against Damon Corporation on Feb. 23, 1978 (91 F.T.C. 301). The addition of Paragraph E exempts from the prior approval requirements of Paragraphs A-C of Part II, acquisitions of any independent laboratory whose net sales of tests and services during the 4 most recent fiscal quarters preceding the acquisition was less than \$2 million.

MODIFIED ORDER TO CEASE AND DESIST

The Commission having considered respondent Damon Corporation's Petition of June 1, 1982, for reopening and modification of the Commission's Order, entered February 23, 1978, in Docket No. C-2916; and the Commission having denied the said Petition and, instead, having issued, on March 29, 1983, an Order to Show Cause Why Order Requiring Commission Approval For Certain Acquisitions Should Not Be Modified; and the Commission, having considered responses to its Order to Show Cause, now enters the following order:

It is hereby ordered, That pursuant to 15 U.S.C. 45, and Section 3.72 of the Commission's Rules of Practice, 16 C.F.R. 3.72 (1983), Part II, Paragraph E of the aforesaid order to cease and desist be, and it hereby is, modified to read:

E. Acquisitions consummated after [the date at which this modification becomes effective], of any independent laboratory which, during the four most recent fiscal quarters preceding the acquisition, has had less than \$2 million in Net Sales of Medical Laboratory Tests and Test Services performed on all specimens (from wherever originating) are exempt from the provisions of Paragraphs A through C of this Part II.

Commissioner Pertschuk dissents for the reasons stated in his Dissenting Statement on the Order to Show Cause.*

* Copies of the Commission's Order to Show Cause and Commissioner Pertschuk's Dissenting Statement are available from the Public Reference Branch, Room 130, Federal Trade Commission, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

IN THE MATTER OF

NEW YORK COFFEE AND SUGAR EXCHANGE, INC., ET AL.

VACATING ORDER IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6235. Consent Order, April 1, 1955—Vacating Order, Oct. 18, 1983*

The Federal Trade Commission has reopened this proceeding and vacated its order issued on April 1, 1955 (51 F.T.C. 859), in light of the Commodity Futures Trading Commission's exclusive jurisdiction over respondents' activities.

ORDER VACATING CEASE AND DESIST ORDER ISSUED ON APRIL 1, 1955

On April 1, 1955, [51 F.T.C. 859] the Federal Trade Commission, pursuant to Section 5 of the Federal Trade Commission Act, as amended, issued the consent order in this case against the New York Coffee and Sugar Exchange, Inc., et al., (now known as the Coffee, Sugar and Cocoa Exchange), prohibiting, among other things, the use of certain restrictive contracts for trading in coffee futures.

Since enactment of the Commodity Futures Trading Commission Act, in 1974, 7 U.S.C. 1 *et seq.*, the Exchange's activities have come under the exclusive jurisdiction of the Commodity Futures Trading Commission ("CFTC"). Because the conduct covered by the Commission's order is now specifically regulated by the CFTC, the Commission has determined that it would be in the public interest to vacate its order in Docket No. 6235.

On August 1, 1983, the Commission issued an order to show cause why the order in Docket No. 6235 should not be vacated. The proposed action was accepted by the respondents.

Accordingly,

It is ordered, That this matter be, and it hereby is, reopened and that the order in Docket No. 6235 be vacated.