

IN THE MATTER OF

GREAT LAKES CHEMICAL CORPORATION, ET AL.

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 9155. Complaint June 23, 1981—Decision and Order May 23, 1984.*

The Federal Trade Commission has dismissed the proceedings against Northwest Industries, Inc. and Velsicol Chemical Corp.

Appearances

For the Commission: *John V. Lacci.*

For the respondent: *William Fifield, Christian L. Campbell, Sidley & Austin*, Chicago, Ill. and *William G. Schaefer, Jr., Sidley & Austin*, Washington, D.C. for Northwest, Industries, Inc. and Velsicol Chemical Corporation.

DECISION AND ORDER

The Commission having heretofore issued its complaint charging respondents, Great Lakes Chemical Corporation, Northwest Industries, Inc., and Velsicol Chemical Corporation, with violation of Section 7 of the Clayton Act, as amended, and Section 5 of the Federal Trade Commission Act, as amended, and the respondents having been served with a copy of that complaint, together with a notice of contemplated relief; and

Respondents Northwest Industries, Inc. and Velsicol Chemical Corporation ("respondents"), their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint, a statement that the signing of said agreements is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with Section 3.25(c) of its Rules; and

The Commission having considered the matter and having thereupon accepted the executed consent agreement and placed such

* Complaint previously published at 103 F.T.C. 467.

agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter by interested persons pursuant to Section 3.25 of its Rules, now in further conformity with the procedure prescribed in Section 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Northwest Industries, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 6300 Sears Tower, in the City of Chicago, State of Illinois.

2. Respondent Velsicol Chemical Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 341 East Ohio Street, in the City of Chicago, State of Illinois.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That all proceedings in Docket No. 9155 against Northwest Industries, Inc. and Velsicol Chemical Corporation shall be dismissed.

Interlocutory Order

103 F.T.C.

IN THE MATTER OF

KAISER ALUMINUM & CHEMICAL CORPORATION

*Docket 9080. Interlocutory Order, May 25, 1984*ORDER GRANTING EXTENSION OF *IN CAMERA* TREATMENT

Various exhibits in this proceeding have been subject to *in camera* treatment, pursuant to order of Administrative Law Judge James P. Timony. This order has now expired.

Third parties to this proceeding, Basic Incorporated ("Basic"), and J. E. Baker Company and Dolomite Brick Corporation ("Baker"), have requested a continuation of *in camera* treatment, by motions dated October 13, 1981 and October 15, 1981, respectively.

In Commission proceedings, requests for *in camera* treatment must show

that the public disclosure of the documentary evidence will result in a clearly defined, serious injury to the person or corporation whose records are involved. The showing may consist of extrinsic evidence or, in certain instances, may be inferred from the nature of the documents themselves.¹

That showing can be made by establishing that the documentary evidence is "sufficiently secret and sufficiently material to [the applicant's] business that disclosure would result in serious competitive injury," and then balancing that factor against "the importance of the information in explaining the rationale of [Commission] decisions."²

The Commission agrees that an extension of *in camera* treatment for these documents is justified. These are documents detailing sales of specific lines of refractories and related products, data regarded as extremely sensitive by both firms. Even though the statistics in question are over five years old, the companies argue a serious injury would be done them by release of this information, which they have never made available to the public.

The countervailing interest in public disclosure of the information does not outweigh the likelihood of serious competitive injury. A public understanding of this proceeding does not depend on access to these data submitted by these third party firms. Moreover, as third parties, the requests of these companies deserve special solicitude. As a policy matter, extensions of confidential or *in camera* treatment in appropriate cases involving third party bystanders encourages cooperation with future adjudicative discovery requests.

¹ *H. P. Hood & Sons, Inc.*, 58 F.T.C. 1184, 1188 (1961); see 16 C.F.R. 3.45(b) 1983).

² *General Foods Corp.*, 95 F.T.C. 352, 355 (1980); see *Bristol Myers Co.*, 90 F.T.C. 455, 456 (1977).