

Set Aside Order

105 F.T.C.

IN THE MATTER OF

LURIA BROTHERS AND COMPANY, INC., ET AL.

SET ASIDE ORDER IN REGARD TO ALLEGED VIOLATION OF THE FEDERAL
TRADE COMMISSION ACT AND SEC. 7 OF THE CLAYTON ACT*Docket 6156. Order, Feb. 13, 1963—Set Aside Order, March 28, 1985*

In response to a petition filed by Luria Brothers and Company, Inc. ("Luria"), the Commission, on February 1, 1985, reopened the proceedings in Docket No. 6156 and set aside the order issued on February 13, 1963, 65 F.T.C. 243, as it applied to Luria, on ground that it no longer served any procompetitive purpose and may impede the company's ability to compete effectively for the business of scrap consumers that desire exclusive supply arrangements. [105 F.T.C. 192] However, the commission determined that this action would only provide partial relief as long as the corresponding prohibitions against the purchasers of iron and steel scrap remained in effect. It therefore issued to respondent mills still in operation, orders to show cause why the proceedings in Docket 6156 should not be reopened to set aside Paragraph 2(a), which prohibited the mills from purchasing scrap exclusively from Luria, and giving the firm preferential treatment as a broker or supplier of scrap. Having received no objections to the proposed action, the Commission has reopened the proceeding and set aside Paragraph 2(a) holding that in view of its set aside order as it applied to Luria, setting aside Paragraph 2(a) of the 1963 order is in the public interest.

ORDER SETTING ASIDE PARAGRAPH 2(a) OF THE ORDER ISSUED
FEBRUARY 13, 1963

In response to a petition filed by Luria Brothers and Company, Inc. ("Luria"), the Federal Trade Commission on February 1, 1985, reopened the proceedings in Docket No. 6156 and set aside the order as it applied to respondent Luria. [105 F.T.C. 192] In doing so, the commission concluded that the order no longer serves any procompetitive purpose and that it may impede unnecessarily Luria's ability to compete effectively for the business of scrap consumers that desire exclusive supply arrangements. However, the Commission believes that setting aside the order as to Luria alone would provide only partial relief as long as order Paragraph 2(a)'s corresponding prohibitions against scrap purchasers remain in effect. Paragraph 2(a) prohibits the respondent mills from purchasing all or almost all of any plant's requirement of scrap iron and steel from Luria, and from giving Luria preferential status or favored treatment as a broker or supplier of iron and steel scrap.

On February 1, 1985, the Commission, pursuant to Section 3.72 of its Rules of Practice and Procedure, 16 C.F.R. 3.72, issued to the

spondent mills still in operation¹ orders to show cause why the proceedings in Docket No. 6156 should not be reopened to set aside Paragraph 2(a) of the order. Respondent mills were provided an opportunity to object to the proposed action, and having failed to do so, are now deemed to have consented to such action. In view of the Commission's set aside of the order as it applied to Luria, the Commission believes that the set aside of Paragraph 2(a) of the order, barring the respondent mills from using Luria as their exclusive scrap broker or supplier, is in the public interest.

Accordingly,

It is hereby ordered, That this matter be, and it hereby is, reopened and that Paragraph 2(a) of the order shall be set aside as of the effective date of this order.

Commissioner Bailey concurs in result.

¹ The Commission issued show cause orders to the following respondent mills: Bethlehem Steel Corporation; United States Steel Corporation; Phoenix Steel Corporation; Empire-Detroit Steel Division, Cyclops Corporation; ITT Grinnell Corporation; Standard Steel Division, Titanium Metals Corporation; McLouth Steel Corporation; Edgewater Corporation; Bucyrus-Erie Company; Weirton Steel Corporation; CF & I Steel Corporation and National Steel Corporation. Respondent mill formerly known as the Granite City Steel Company is now a division of the National Steel Corporation.

Modifying Order

105 F.T.C.

IN THE MATTER OF

THE AMERICAN ACADEMY OF ORTHOPAEDIC SURGEONS

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-2856. Consent Order, Dec. 14, 1976—Modifying Order, March 29, 1985*

In response to a petition filed by the American Academy of Orthopaedic Surgeons ("AAOS"), this Order reopens the matter of Docket C-2856, and modifies the consent order entered against AAOS, 88 F.T.C. 968, by deleting Paragraph II(B) of the Order which bars the organization from advising in favor of or against any relative value scale developed by third parties, and inserting a provision identical to one contained in the FTC's order in *Michigan State Medical Society (Michigan State)*, Docket No. 9129, 101 F.T.C. 191, that permits AAOS more freedom to discuss reimbursement issues with third-party payers and governmental entities. The Commission noted that it had recently modified a similar order entered against the American College of Obstetricians and Gynecologists ("ACOG"), Docket No. C-2855, [104 F.T.C. 524 (1984)] after finding that the benefits derived from its restriction on ACOG's ability to discuss relative value scales with third-party payers and governmental entities were outweighed by the resulting injury to ACOG and the public, and that finding was applicable to AAOS. Accordingly, the Commission has modified the AAOS order in the same manner as it modified the ACOG order, and that modification is also consistent with the Commission's decision in *Michigan State*.

ORDER REOPENING AND MODIFYING FINAL ORDER

By petition filed November 19, 1984, the American Academy of Orthopaedic Surgeons ("AAOS") asked the Commission to reopen and modify the Commission order in Docket No. C-2856 entered by consent against AAOS on December 14, 1976 ("Order") [88 F.T.C. 968]. AAOS requested that the Commission modify the Order by a) deleting Paragraph II(B) of the Order, which prohibits AAOS from advising in favor of or against any relative value scale developed by third parties (except that AAOS is permitted to provide historical data), and b) inserting a provision identical to a provision contained in the Commission's Order in *Michigan State Medical Society*, Docket No. 9129, 101 F.T.C. 191 (1983) ("*Michigan State*") that would allow AAOS more freedom to discuss issues relating to reimbursement with third-party payers and governmental entities. AAOS's petition was placed on the public record and no comments were received.

Upon consideration of AAOS's petition and other relevant information, the Commission finds that the public interest would be served by deleting Paragraph II(B) of the Order and by inserting the relevant provision contained in the order in *Michigan State*. The Commission's