

IN THE MATTER OF

HAROLD A. HONICKMAN, ET AL.

AMENDING ORDER IN REGARD TO ALLEGED VIOLATION
OF SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF
THE FEDERAL TRADE COMMISSION ACT*Docket 9233. Consent Order, July 25, 1991--Amending Order, July 20, 1992*

This order reopens the proceeding and amends the Commission's consent order issued on July 25, 1991, (114 FTC 427) by deleting the ninety-day reporting requirement in the first clause of paragraph V(A), and by correcting the syntax of paragraph III(A)(2).

ORDER AMENDING CONSENT ORDER
ISSUED ON JULY 25, 1991

On July 25, 1991, the Commission issued its consent order in Docket No. 9233. The order became final on August 5, 1991. 16 CFR 2.41(c) (1992).

Paragraph II of the order sets forth a ten-year prior approval requirement for certain proposed acquisitions of bottling operations by respondents.¹ Paragraph V(A) of the order now requires, among other things, that respondents file reports of compliance every ninety days until they comply with the provisions of paragraph II. However, in addition, paragraph V(B) of the order, consistent with the Commission's general practice respecting prior approval provisions in Commission orders, requires that respondents file annual reports concerning their compliance with paragraph II. The Commission believes that its interests in monitoring the respondents' compliance with paragraph II of the order are adequately protected by the annual report requirement in paragraph V(B) of the order, and that it is

¹ Respondents may make a bottling operation acquisition under certain circumstances without invoking the paragraph II prior approval requirement if they satisfy the conditions of paragraph III of the order. That paragraph requires the respondents to notify the Commission at least thirty days prior to the acquisition and then to divest any existing Honickman bottling operation in a specific geographic area.

unnecessary to require that respondents file compliance reports every ninety days. The Commission therefore believes that it would be in the public interest to delete the ninety-day reporting requirement in paragraph V(A).

In addition, the first sentence of paragraph III(A)(2) of the order uses a singular pronoun and verb to refer to the plural "respondents," stating that respondents shall "[d]ivest . . . its business of bottling . . . that it then conducts . . ." (emphasis added). Although paragraph III(A) thus clearly requires the respondents to divest their business of bottling, distributing and selling CSDs and non-carbonated drinks, except for carbonated and non-carbonated waters, that they then conduct, the Commission has determined to correct the syntax of paragraph III(A)(2).

By letter dated November 1, 1991, the respondents consented to the changes contemplated by this order. Accordingly,

It is ordered, That the proceeding be, and it hereby is, reopened; and

It is further ordered, That the consent order in Docket No. 9233 be, and it hereby is, amended by

(1) Deleting the first clause of paragraph V(A) mandating ninety-day reports for the paragraph II prior approval requirement and beginning paragraph V(A) with the word "If;" and

(2) Changing the first sentence of paragraph III(A)(2) to state as follows:

Divest, absolutely and in good faith within six (6) months after the date of any such acquisition, their business of bottling, distributing and selling CSDs and non-carbonated drinks, except for carbonated and non-carbonated waters, that they then conduct through any Existing Honickman Bottling Operation in those counties in the New York Metropolitan Area in which such newly-acquired Bottling Operation also operates (such Existing Honickman Bottling Operation is hereinafter referred to as "Paragraph III Operation.").

Commissioner Azcuenaga and Commissioner Starek recused.

IN THE MATTER OF

SANDOZ PHARMACEUTICALS CORPORATION

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-3385. Complaint, July 28, 1992--Decision, July 28, 1992

This consent order prohibits, among other things, a New Jersey-based company from requiring any purchaser of clozapine, a schizophrenia drug, or a patient taking clozapine sold by Sandoz, to buy other goods or services from the respondent or anyone designated by the respondent. In addition, the consent order requires that, if any company needs information about patients who have had adverse reactions to clozapine, the respondent must provide that information on reasonable terms.

Appearances

For the Commission: *Karen E. Berg* and *Jonathan Banks*.

For the respondent: *Daniel R. Shulman* and *Quentin Wittrock*,
Gray, Plant, Mooty, Mooty & Bennett, Minneapolis, MN.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. 41 *et seq.*, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Sandoz Pharmaceuticals Corporation has violated and is violating Section 5 of the Federal Trade Commission Act, and that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint, stating its charges as follows:

RESPONDENT

PARAGRAPH 1. Sandoz Pharmaceuticals Corporation ("Sandoz") is a Delaware corporation with its mailing address and principal office located at 59 Route 10, East Hanover, New Jersey. Sandoz