

Set Aside Order

119 F.T.C.

IN THE MATTER OF

THE H.D. LEE CO., INC.

SET ASIDE ORDER IN REGARD TO ALLEGED VIOLATION OF
SEC. 2(d) OF THE CLAYTON ACT*Docket C-411. Consent Order, May 1, 1963* -- Set Aside Order, Feb. 14, 1995*

The Federal Trade Commission has set aside a 1965 consent order with The H.D. Lee Co., Inc., (62 FTC 1248), pursuant to the Commission's Sunset Policy Statement, under which the Commission presumes that the public interest requires terminating competition orders that are more than 20 years old.

ORDER REOPENING PROCEEDING
AND SETTING ASIDE ORDER

On October 26, 1994, The Lee Apparel Company, Inc., formerly The H.D. Lee Co., Inc. ("Lee") filed its Petition To Reopen and Set Aside Consent Order ("Petition") in this matter. Lee requests that the Commission set aside the 1965 consent order in this matter pursuant to Rule 2.51 of the Commission's Rules of Practice, 16 CFR 2.51, and the Statement of Policy With Respect to Duration of Competition Orders and Statement of Intention to Solicit Public Comment With Respect to Duration of Consumer Protection Orders, issued July 22, 1994, published at 59 Fed. Reg. 45,286-92 (Sept. 1, 1994) ("Sunset Policy Statement"). In the Petition, Lee affirmatively states that it has not engaged in any conduct violating the terms of the order. The Petition was placed on the public record, and the thirty-day comment period expired on December 15, 1994. No comments were received.

The Commission in its July 22, 1994, Sunset Policy Statement said, in relevant part, that "effective immediately, the Commission will presume, in the context of petitions to reopen and modify existing orders, that the public interest requires setting aside orders in effect for more than twenty years."¹ The Commission's order in Docket No. C-411 became final on August 9, 1965, and has been in effect for more than twenty-nine years. Consistent with the Commission's July 22, 1994, Sunset Policy Statement, the presumption is that the order should be terminated. Nothing to

* The consent order was made effective on August 9, 1965.

¹ See Sunset Policy Statement, 59 Fed. Reg. at 45, 289.

overcome the presumption having been presented, the Commission has determined to reopen the proceeding and set aside the order in Docket No. C-411.

Accordingly, *It is ordered*, That this matter be, and it hereby is, reopened;

It is furthered ordered, That the Commission's order in Docket No. C-411 be, and it hereby is, set aside, as of the effective date of this order.

Complaint

119 F.T.C.

IN THE MATTER OF

SULZER LIMITED

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

Docket C-3559. Complaint, Feb. 23, 1995--Decision, Feb. 23, 1995

This consent order requires, among other things, Sulzer, a Swiss firm to divest, within six months, a copy of all the information necessary to purchase ingredients for, to manufacture and to sell aluminum polyester powder -- equivalent to Sulzer's Amdry 2010 -- to a Commission-approved acquirer. If the divestiture is not completed on time, the consent order permits the Commission to appoint a trustee to divest copies of both the Amdry 2010 information and all product information relating to the acquired firms aluminum polyester powder. In addition, the consent order requires the respondent, for ten years, to obtain Commission approval before acquiring any assets in the aluminum polyester powder market.

Appearances

For the Commission: *Ann B. Malester, Claudia Higgins and Mary Lou Steptoe.*

For the respondent: *Joel Mitnick and Neal Stoll, Skadden, Arps, Slate, Meagher & Flom, New York, N.Y. Sutton Keaney, Winthrop, Stimson, Puntham & Roberts, New York, N.Y.*

COMPLAINT

The Federal Trade Commission ("Commission"), having reason to believe that respondent Sulzer Limited, a corporation, subject to the jurisdiction of the Commission, has agreed to acquire all of the assets of the Metco Division of The Perkin-Elmer Corporation, a corporation subject to the jurisdiction of the Commission, in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 45; and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows: