

acceptance of the negotiated term creates an unfortunate precedent. Future respondents are likely to seek comparable concessions, increasing both the public and private costs of law enforcement negotiations. To the extent that the order reduces the length of the period for public comment and no good cause for that departure from the Commission's rules having been shown, I dissent.

Nor should the commission condone fixing a date certain for termination of the hold-separate agreement.<sup>2</sup> This means that to preserve its options, the Commission must decide the matter by a date certain, which trivializes the decisionmaking process. The Commission can expedite matters and has done so when appropriate,<sup>3</sup> as consistent with a careful review of the merits. A willingness to act expeditiously is quite different from acquiescing in advance to a "drop dead date" that may leave the Commission unable fully to consider issues and conditions as they may then exist or as they may be revealed during the public comment period.<sup>4</sup>

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[Dkt. C-411]

### The H.D. Lee Co., Inc.; Prohibited Trade Practices and Affirmative Corrective Actions

**AGENCY:** Federal Trade Commission.

**ACTION:** Set aside order.

**SUMMARY:** This order reopens a 1965 consent order—which settled allegations that the respondent discriminated in the offering of advertising or promotional payments to its customers in connection with the resale of its wearing apparel—and sets aside the consent order pursuant to the

which requires a 60-day public comment period for Department of Justice antitrust consent orders. The Tunney Act also provides that the 60-day public comment period "shall not be shortened except by order of the district court upon a showing that (1) extraordinary circumstances require such shortening and (2) such shortening is not adverse to the public interest." 15 U.S.C. §16(d).

<sup>2</sup> A hold separate agreement preserves a viable and competitive business, independent of the acquirer, in part to ensure the Commission's ability to require a divestiture. When the hold separate agreement expires, the parties are free to consummate their transaction.

<sup>3</sup> Expedited treatment for one respondent means moving that matter to the front of the queue. The Commission ordinarily has required a showing that such treatment is warranted.

<sup>4</sup> The Commission and the public interest would be disserved to the extent that useful comments from the public are abbreviated or perhaps not even submitted because of the shortened public comment period.

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.

**DATES:** Consent order issued May 1, 1963.\* Set aside order issued February 14, 1995.

**FOR FURTHER INFORMATION CONTACT:** Roberta Baruch, FTC/S-2115, Washington, DC 20580. (202) 326-2861.

**SUPPLEMENTARY INFORMATION:** In the Matter of The H.D. Lee Co., Inc. The prohibited trade practices and/or corrective actions are removed as indicated.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 2, 49 Stat. 1526; 25 U.S.C. 13)

In the Matter of The H.D. Lee Co., Inc., a corporation; Order Reopening Proceeding and Setting Aside Order.

[Docket No. C-411]

Commissioners: Janet D. Steiger, Chairman Mary L. Azcuenaga, Roscoe B. Starek, III, Christine A. Varney.

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 1.51 of the Commission's Rules of Practice, 16 C.F.R. § 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."<sup>1</sup> The Commission's order in Docket No. C-411 became final on August 9, 1995, 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 overcome the

\* The consent order was made effective on August 9, 1995.

<sup>1</sup> See Sunset Policy Statement, 59 FR at 45,289.

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 further 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.

By the Commission.

**Donald S. Clark,**

Secretary.

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[File No. 951 0012]

### Service Corporation International; Proposed Consent Agreement With Analysis To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed Consent Agreement.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition—in connection with Service Corporation International's acquisition of Uniservice Corporation—this consent agreement, accepted subject to final Commission approval, would require, among other things, the Texas corporation to divest, to a Commission-approved acquirer, the Uniservice Corporation assets and businesses in Medford, Oregon, within twelve months or transfer responsibility for the divestiture to a trustee appointed by the Commission, and to obtain prior Commission approval, for a period of ten years, before acquiring any interest in funeral establishments or cemeteries in Jackson County, Oregon.

**DATES:** Comments must be received on or before May 8, 1995.

**ADDRESSES:** Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa Ave., N.W., Washington, D.C. 20580.

**FOR FURTHER INFORMATION CONTACT:** K. Shane Woods or Charles A. Harwood, FTC/Seattle Regional Office, 915 Second Ave., Suite 2806, Seattle, WA. 98174. (206) 220-6350.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will