

ADMINISTRATIVE PROCEEDING
FILE NO. 3-5169

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of :
PETER D. GIACHINI :
JOHN J. MURPHY :
(812-4054) :

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INITIAL DECISION

Washington, D.C.
January 16, 1978

Irving Sommer
Administrative Law Judge

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In the Matter of :
PETER D. GIACHINI :
JOHN J. MURPHY : INITIAL DECISION
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APPEARANCES: Paul B. O'Kelly and Max M. Luck of the
Chicago Regional Office of the Commission,
for the Division of Enforcement.

N.A. Giambalvo of Boodell, Sears, Sugrue,
Giambalva & Crowley, for Peter D. Giachini
and John J. Murphy.

BEFORE: Irving Sommer, Administrative Law Judge

By order adopted February 15, 1977 the Commission directed that a hearing be held pursuant to Section 9(c) of the Investment Company Act of 1940 (the "Act") with respect to an application filed on November 15, 1976 by Peter D. Giachini and John J. Murphy ("Applicants"), seeking an exemption from the provisions of Section 9(a) of the Act.

The Order directed that a hearing be held with respect to said application, and the following matters, among other things, are to be considered: (1) whether the prohibitions of Section 9(a) of the Act as applied to Applicants are unduly harsh or disproportionately severe; or (2) whether the conduct of Applicants has been such as not to make it against the public interest or protection of investors to grant the Applicants an exemption from the provisions of Section 9(a).

Respondents appeared through counsel, who participated throughout the hearing. Successive filings of proposed findings, conclusions, and supporting briefs were specified as part of the post-hearing procedures and timely filings thereof were made by the parties. The findings and conclusions herein are based upon the preponderance of the evidence as determined from the record, and upon observation of the witnesses. ^{1/}

Applicants

Peter D. Giachini is a practicing attorney and a member of the Illinois bar since 1933. He is the President and a director of the Maywood Proviso State Bank, Maywood, Illinois.

^{1/} As to the Division's charge of a violation of Section 34(b) of the Investment Company Act, which involves fraudulent acts, the standard of proof applied was "clear and convincing evidence", pursuant to the decision in Collins Securities Corp. v. S.E.C. (C.A.D.C. 1977)

He is also president and a director of Continental Mortgage Company, in which he owns a controlling interest. Continental Mortgage Company is a one bank holding company which controls the Maywood Proviso State Bank.

John J. Murphy is a practicing attorney and a member of the Illinois bar since 1956. He is a director and vice-president of the Maywood Proviso State Bank, Maywood, Illinois.

Background of Involved Companies

Advance Growth Capital Corporation ("Advance Growth"), located in LaGrange, Illinois is a small business investment company licensed by the Small Business Administration, and has been registered with the Commission as a closed-end investment company pursuant to Section 8 of the Act since June 29, 1961. There are approximately 439,000 shares of stock outstanding.

Continental Mortgage Company ("Continental") is in the loan business. It owns an 81% interest in Maywood Proviso State Bank, and 55,930 shares of Advance Growth. The Giachini family owns a controlling interest in Continental.

Maywood Proviso State Bank Trust 2541 ("Trust") is an irrevocable trust, the sole beneficiaries being Giachini's grandchildren. Maywood Proviso State Bank is the sole trustee of Trust 2541. Trust 2541 owns 41,852 shares (9.5%) of the outstanding shares of Advance Growth. Those shares are held in

the nominee name of Proviso & Company.

Background of Injunctive Action

A short history of the Advance Growth Capital Corporation and the business and financial dealings of Giachini as noted by the Circuit Court is necessary to place the injunction in its proper context. Advance Growth is a small business investment company organized in 1961. Initially approximately \$6,500,000 in capital was raised by public sale of stock and money loaned by the Small Business Administration. The Company suffered severe losses due to poor financial management. Giachini and Murphy, both stockholders of Advance, gained control of the management in 1963, and proceeded to institute managerial changes which reduced the corporate deficit and "achieved some degree of stability -- especially in comparison with its condition under prior management." In 1965, the company's capital was impaired and the Small Business Administration filed suit to appoint a receiver. The impairment of the assets was corrected and the suit was dismissed in 1966. Thereafter, the Commission instituted an investigation which culminated in this injunctive suit.

On June 13, 1969 the Commission filed a complaint for injunction in the United States District Court for the Northern District of Illinois against Advance Growth Capital Corporation, Peter D. Giachini, and John J. Murphy under Sections 36 and 42(e) of the Investment Company Act of 1940. The complaint alleged

that Sections 17(a),^{2/} 17(d)^{3/}, 34(b) and 36 of the Act had been violated as a result of various transactions between Advance Growth and affiliated persons of either Advance Growth or Mr. Giachini, and because of failure to disclose certain information required in the annual reports submitted to the Commission. In a decision dated August 27, 1971, the District Court declined to issue injunctive relief or appoint a receiver. Instead, it directed defendants to conform more strictly to the Investment Company Act and to obtain court permission before undertaking certain transactions. The Commission appealed the District Court's refusal to grant injunctive relief, and on November 13, 1972, the United States Circuit Court of Appeals for the Seventh Circuit found that the defendants had committed the violations alleged.^{4/}

The Circuit Court found that Giachini and Murphy had violated Section 17 of the Investment Company Act prohibiting self-dealing by persons associated with investment companies, as well as a breach of fiduciary obligations owed to the company. Without going into the "tangled web of affiliations and the many transactions resulting in the alleged violations"

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- ^{2/} Section 17(a) of the Investment Company prohibits, absent an exemption sales of securities or other property to, or purchases of securities or other property from a registered investment company by an affiliated person of such investment company, or by an affiliated person of such a person.
- ^{3/} Section 17(d) of the Act, together with Rule 17d-1 thereunder requires that "joint participations" between investment companies and their affiliated persons require the approval of the Commission so that it be ascertained whether such plan or arrangement is consistent with the provisions, policies and purposes of the Act.
- ^{4/} S.E.C. v. Advance Growth Capital Corp., et al., 470 F.2d 40 (7th Cir. 1972).

which are "involved and complex", it suffices to state that the Circuit Court found the allegations of the Commission proven.

The Court determined that defendants had committed violations of the Act which were not simply "inadvertent and harmless" as characterized by the District Court but found,

"They were committed with knowledge of the Act's provisions and were clearly disadvantageous to Advance Growth and its stockholders. These were not mere 'technical' violations of regulatory legislation, but continual and extensive violations They provide the opportunity for personal gain by those with fiduciary obligations -- the specific target of the Investment Company Act's prohibitions." 5/

The Circuit Court further found that the omission of material facts from the annual report which Advance filed with the Commission constituted a violation of Section 34(b) of the Act, and that both Giachini and Murphy were responsible therefor. The Circuit Court vacated the order of the District Court, remanding the case for entry of a permanent injunction enjoining further violations of the Investment Company Act.

The District Court issued an order on January 16, 1973 which enjoined the Applicants from violating the Investment Company Act, and allowed applicants to continue serving as officers and directors of Advance Growth Capital Corporation. On February 7, 1973, the Commission filed a petition for writ of mandamus to the Circuit Court directing the entry of an

5/ 470 F.2d at 53-54.

injunction in compliance with Section 9(a)(2) of the Investment Company Act and Rule 65(d) of the Federal Rules of Civil Procedure. On April 3, 1973, the writ of mandamus was granted and on April 9, 1973 the District Court entered a Final Judgement of Permanent Injunction against Applicants which did not allow Giachini and Murphy to continue to act as officers and directors of Advance Growth. Both men resigned their positions with the corporation on May 11, 1973.

Discussion

Peter D. Giachini and John J. Murphy, formerly officers and directors of Advance Growth Capital Corporation, a registered investment company, applied pursuant to Section 9(c) of the Investment Company Act of 1940 from an exemption from Section 9(a) of the Act under which they are ineligible to act as an officer or director of a registered investment company.^{6/}

Contentions of Applicants

In support of their application, applicants assert that, since entry of the injunction they have conducted all business

^{6/} Section 9(a) of the Act makes it unlawful for any person who, by reason of any misconduct, is permanently or temporarily enjoined from engaging in or continuing any activity in connection with affiliation or employment with any investment company to serve or act in the capacity of employee, officer, director, member of advisory board, investment adviser, or depositor of any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, registered face-amount certificate company.

Section 9(c) of the Act authorizes the Commission to grant an exemption from Section 9(a) "either unconditionally or on an appropriate temporary or other conditional basis" if it is established that the Section 9(a) prohibitions "are unduly or disproportionately severe" or that the conduct

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activity in full compliance with the law and, in particular with the provisions of the Act; they have engaged in the practice of law in full compliance with professional standards, and they continue to enjoy excellent reputations in the community and at the bar. In addition, Applicants assert they continue to suffer embarrassment in their business relations by reason of the injunction, and have rectified their past conduct and have given reasonable assurance of future compliance with the law.

Applicants urge that "to continue the prohibitions of Section 9(a) would serve merely as punishment" and is "not the purpose of the Act". Based on the allegations in the application and their testimony which demonstrate good conduct and compliance with the law, they submit that the "objective of the injunction has been achieved, and that the prohibitions of Section 9(a) as applied to them are "now unduly and disproportionately severe," and that the "public interest would best be served by the allowance of this application."

Contentions of the Division

The Division asserts that the application for exemption should be denied not only because of the serious nature of

6/ (CONTINUED)

of the person disqualified "has been such as not to make it against the public interest or protection of investors to grant" an exemption.

the violative conduct which gave rise to the injunctive action, but that the applicants have continued to violate various provisions of the Securities laws since the issuance of the injunction.

Specifically, the Division alleges that Giachini and Murphy violated and aided and abetted violations of both Sections 13(d)^{7/} of the Exchange Act and 30(f)^{8/} of the Investment Company Act. Additionally, both applicants are alleged to have violated Sections 34(b) and 9(a) of the Investment Company Act.

Alleged Reporting Violations

Prior to March 22, 1973 Giachini beneficially owned 24,052 shares, or 5.7% of Advance Capital stock. He purchased 1000 shares on March 22, 1973, and 14,800 shares on June 11, 1973. Under Section 13(d), 15 U.S.C. 78m(d) of the Exchange Act he was required to file a Schedule 13D with the Commission concerning this acquisition. He did not. Instead he filed a Form 4 report of acquisition of 14,800 shares, which is required under Section 16(a)^{9/} of the Exchange Act. Giachini is not aided by such filing. Schedule 13D,

^{7/} Section 13(d) of the Exchange Act provides that upon the acquisition of more than 5% of a class of securities of a corporation the person or group making the acquisition must, within 10 days, send to the issuer, to any exchange where the security is traded, and to the Commission, a statement containing certain prescribed information.

^{8/} Section 30(f) of the Act as applicable herein requires that every person who is directly or indirectly the beneficial owner of more than 10% of the outstanding stock of which a registered investment company is the issuer, or who is an officer or director shall file statements with the Commission indicating such stock ownership and any changes therein.

^{9/} Under Section 16(a) of the Exchange Act beneficial owners of 10% of securities of a corporation are required to file a statement with the
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which he failed to file requires comprehensive information, including the background and identity of persons on whose behalf the purchases have been made; the source of funding for the purchases; whether the objective of the purchases is control, and, if so, any proposed major business changes; the number of shares owned, both by the person holding in excess of 5% and by any "associate" thereof; and information concerning any contracts or agreements with respect to the securities of the issuer.

Additionally, on February 12, 1975 Giachini transferred beneficial ownership of his 39,852 shares in Advance capital to Trust 2541 (an irrevocable trust established for his grandchildren), of which the Maywood-Proviso State Bank is the sole trustee. The transfer of all his shares was a "material change" in ownership which was required to be reported to the Commission pursuant to Section 13(d)(2) of the Exchange Act. He filed no report covering this transaction.

His allegations that he was unaware of the filing requirements under Section 13, or that he was never notified of the need to file under this section are lacking in merit and are unavailing. In my opinion, the evidence establishes that Giachini violated Section 13(d)(1) and (2) of the Exchange Act in his failure to file the required reports.

9/ (CONTINUED)

Commission reporting the number of shares beneficially owned. It also requires the reporting of any changes in the number of shares beneficially owned.

Giachini is president and a director of Continental Mortgage Company. He was responsible for corporate compliance with the securities laws. Prior to February 23, 1973 Continental owned 23,330 shares or 5.3% of Advance Capital. On February 23, 1973, it purchased 10,000 shares raising its interest in Advance Capital to 33,330 shares or 7.6%. On April 13, 1973 Continental purchased an additional 11,000 shares which raised its interest in Advance Capital to 10.1%, and finally on April 19, 1973 an additional 11,600 shares were acquired raising its total stock interest in Advance Capital to 55,930 shares or 12.7%. The corporation was required to file reports of such purchases under Section 13(d) of the Exchange Act. As president of the corporation and its chief executive officer with responsibility for compliance with the securities laws, Giachini knew or should have known of the filing requirements concerning Continental stock acquisitions. As the corporate officer admittedly charged with corporate securities compliance, Giachini cannot escape responsibility for Continental's violations of Section 13(d), and must therefore be held to have participated or aided and abetted in Continental's violations of Section 13(d) of the Exchange Act. It is well settled that liability under the federal securities laws appropriately may be imposed on person's who aid and abet the securities laws violations of others. As the Commission stated in H.D. Keister & Company, 43 S.E.C. 164, 169 (1966):

"A finding that a person is an aider or abetter is established by a showing that he performed acts which he knows or has reason to know will contribute to the carrying out of the wrongful conduct."

In view of the foregoing, I find that Giachini aided and abetted Continental in violation of Section 13(d) of the Act.

The purchase of 11,000 shares in April 13, 1973 and 11,600 shares on April 19, 1973 by Continental brought its total ownership of Advance Capital shares to 55,930 or 12.7% of the outstanding shares. As such, Continental was required under Section 16(a) of the Exchange Act to report such acquisition. The Division alleges no report was filed and thusly a violation of 30(^{10/}f) of the Investment Company Act occurred.

In support of its position the Division submitted a statement by Mr. Charles A. Moore, Records Officer, attesting that a search of Commission records does not disclose any Form 4 filing by Continental reporting the acquisition of 22,600 shares in April 1973. Giachini, however, states this report is in error, that the required Form 4 report was filed in April 1973. As part of his proof, Giachini submitted a copy of the Form 4 report which he testified was duly prepared and sent to the Commission. Based on his sworn testimony and copies of the report which are part of the record, it would appear the question of whether the report was filed is an open one. Based on the record, I cannot make a finding either way. Under all the circumstances herein, I do not find that

^{10/} Continental's failure to fulfill the reporting requirements of Section 16(a) would constitute a violation of Section 30(f) of the Act.

the alleged violation of Section 30(f) of the Investment Company Act was proven by a preponderance of the evidence.

Trust 2541, an irrevocable trust established for the benefit of Giachini's grandchildren, acquired beneficial ownership of 39,852 shares of Advance Growth stock from Giachini on February 12, 1975 increasing its holdings in Advance Growth to 41,852 shares or 9.5%. Maywood-Proviso State Bank, the trustee for Trust 2541 was required to file Schedule 13D under Section 13(d) of the Exchange Act upon acquisition of these shares. No such filing was made. Giachini and Murphy were officers and directors of the bank as well as members of the trust committee. They knew or should have known of the filing requirements concerning acquisition by the Trust of these shares. Hence, it is found Giachini and Murphy aided and abetted Maywood-Proviso State Bank's violation of Section 13(d) of the Exchange Act.

Giachini alleges that since he controls both the bank and Continental Mortgage, there was no change of beneficial ownership in the transfer of shares to the Trust, and thusly, no report was required. This allegation is untenable. Giachini specifically denied beneficial ownership in response to a division request as to the nature of his ownership of these shares. His reply was, ". . . I own no shares of record. Also, I own no shares beneficially. . . I own no other shares directly or indirectly." As a practicing attorney, Giachini

was well aware of the various forms of stock ownership. It must be assumed that his response was a reasoned one, and since it directly and categorically disclaimed any such ownership, cannot at this point be blithely dismissed.

Section 34(b) of the Investment Company Act

Section 34(b) of the Act, makes it unlawful for any person to make an untrue statement of a material fact in an application filed with the Commission under the Act.

The application filed by the Applicants contains the following statements:

"Applicant Peter D. Giachini owns or controls 231,300 shares or 52.7% of the issued and outstanding shares of the company".

It additionally states:

"Applicants urge the Commission to grant this application for exemption upon such temporary or conditional basis as the Commission may deem appropriate so as to allow Applicants to participate as officers or directors in the management of the affairs of Advance Growth Capital Corporation, 52.7% of whose capital stock they own or control."

The Division asserts that the applicants had no basis for making the statements in their application, that the applicant were unable to demonstrate how they arrived at their figures, and the evidence does not sustain that they can control the "direction of the management and policies" of the persons listed.

The applicants argue that the intent of the statement was to identify those shareholders who it is believed are

favorable to the applicants based on their prior business performance for the corporation, as well as those shareholders who had business, social, and personal relationships with them. They contend that based on such factors this group would vote their proxies in favor of the applicants.

The word "control" has no strict, definitive or technical meaning which excludes all others. Black's Law Dictionary (4th Edition), p. 399 defines "control" as "power or authority to manage, direct, supervise, restrict, regulate, govern, etc." Its meaning is not absolute or unqualified. Rose v. Union Gas & Oil Co., 297 F. 16, 18 (6th Cir. 1924). 18 C.J.S., page 28 refers to "control" as a comprehensive term of well understood meaning, having various significations and subject to different limitations . . . when broadly used, the term may embrace every form of control, actual or legal, direct or indirect, negative or positive."

In United States v. Bryrum, 408 U.S. 125, 137, n. 13 (1972), Mr. Justice Powell cautions, "the concept of 'control' is a nebulous one."

In Rochester Telephone Corporation v. United States, 307 U.S. 125, 145 (1939) the Supreme Court stated that the question of "control" was "an issue of fact to be determined by the special circumstances of each case." Accord, In the Matter of J.P. Morgan & Co., Incorporated, 10 S.E.C. 119.

Giachini testified that the list of stockholders he supplied to the Division consisted of those who "from time to time, indicated they held me in high regard. I assumed then and I assume now that they would give me their proxies if requested. There are many shareholders whom I have not listed who would probably give me their proxies if requested. . . ." The evidence generally demonstrate that Giachiani could expect favorable actions from shareholders holding close to 220,000 shares.

These expectations were held honestly and were based on his social relationship with many, his business and professional ties with others and his family and corporate holdings. Thusly, it would appear that he could command close to 220,000 shares if required in a voting contest. Interestingly, the three witnesses the Division called for testimony, all indicated their satisfaction and goodwill towards Giachini for past business accomplishments on behalf of the corporation, and while they denied their votes were controlled (all of them apparently felt that this meant they were restricted in use of their stock), they nevertheless gave the distinct impression that they would support Giachini as a matter of their own free will if called upon. I do not believe there was any intent to falsify the application filed or to present material misinformation to the Commission. Applicants wanted to call attention to their very great

stockholder support. Based on the evidence of record. I do not find that the Division has proved by clear and convincing evidence that the applicants violated Section 34(b) of the 11/ Act.

Section 9(a) of the Investment Company Act

This matter was instituted in a complaint filed by the Commission on June 13, 1969. After extensive hearings, the District Court declined to issue injunctive relief or appoint a receiver. The Division appealed, and on November 13, 1972, the Circuit Court vacated the order of the District Court and remanded the case for entry of a permanent injunction. The District Court in its order of January 16, 1973 did not remove the applicants from serving as officers and directors of Advance Capital, and on February 7, 1973, the Commission filed a writ of mandamus directing the entry of an injunction in compliance with Rule 9(a)(2) of the Act which was granted. On April 9, 1973 the District Court entered a Final Judgment of Permanent Injunction which did not allow applicants to continue in their previous position with Advance Capital.

The applicants did not resign as officers and directors until May 11, 1973. The Division alleges their failure to resign for over a month after the final injunction was a violation of Section 9(a) of the Act. The Division contends the "applicants knew or understood the law and should in no way be

11/ Even under the preponderance of evidence standard, the Division did not prove this charge.

excused from responsibility for their violations of it."

The applicants assert there was a "serious doubt and dispute" as to whether the Court had directed they resign as officers and directors, and upon advice of counsel, continued to hold office; that during this period their counsel attempted to resolve this matter with the Commission, and failing to do so, advised their resignation, which was carried out immediately.

As attorneys, both applicants either knew or should have known that they could not serve the investment company in any capacity under the clear provisions of Section 9(a) of the Act. By continuing to serve after the Final Order of Injunction, they clearly violated the law. They cannot shift their duty to comply with the law to counsel. "While reliance upon advise of counsel is a fact that may be taken into account in determining what sanctions are appropriate in the public interest, it does not excuse a failure to comply with applicable provisions of law." S.E.C. v. Kidder, Peabody & Co., Incorporated, 43 S.E.C. 911, 914 (n. 1).

Accordingly, it is concluded that Giachini and Murphy violated Section 9(a) of the Investment Company Act.

Conclusion

The question presented is whether there is present sufficient evidence for the issuance of an order under Section 9(c) of

the Act exempting applicants from the disabilities imposed by Section 9(a). The issue is to be determined by examining the complete record of applicants' conduct, including not only that which resulted in the injunctive action, but conduct subsequent thereto.

The actions of the applicants which culminated in the injunction were particularly egregious violations of the Investment Company Act. The Circuit Court found extensive violations of the Act, all of which constituted an abuse of the trust which Advance Growth had reposed in the applicants. As officers and directors they were in a fiduciary relationship to the investment company; their conduct was highly reprehensible and inimitable to the principles of fiduciary responsibility. Of concern in assessing the conduct of applicants is the statement of the Court in S.E.C. v. Advance Growth Capital Corp., 539 F.2d 649, 651 (n. 1), "the record indicates that the violations of Section 17 by the defendants continued not only after this lawsuit was commenced, but until several months after the trial. . ." The record further supports a finding that the misconduct of the applicants continued since the injunction was issued.

Since the injunction was issued, both applicants violated the reporting requirements of the securities laws. Giachini failed to file the reports required under Section 13 of the Exchange Act concerning his transactions in Advance Growth

Capital stock. Furthermore as president and a director of Continental Mortgage Company he aided and abetted Continental in violation of Section 13 inasmuch as it failed to file the necessary reports with the Commission on acquisition of additional shares. Both Giachini and Murphy aided and abetted the Maywood-Proviso State Bank in its violation of Section 13 of the Exchange Act. These violations were pervasive and must be viewed with concern. The requirements that reports be filed is "a keystone of the surveillance" of the securities industry with which the Commission is charged in the interest of affording protection to the investing public. Their failure to file the reports is even more serious considering that as attorneys they were required to be even more sensitive and aware of their responsibilities under the Act. It appears that these reporting violations continued through the date of hearing in this matter, and may still be continuing. I find that under the circumstances herein, their careless disregard of, and cavalier attitude toward, their obligations to file reports a serious shortcoming in the applicants' ability and desire to comply with the securities laws. Moreover, their continued retention of corporate office subsequent to the entry of Final Order of Injunction on April 9, 1973 was a serious violation of the statute. While they allege reliance in counsel, they cannot shift their duty of compliance with the Act to counsel. As attorneys they should have been even more punctilious in adherence to the statute which clearly

disqualified them from holding office. The public is entitled to the fullest protection regardless of what counsel's views may have been.

The entire record of evidence portrays the conduct of the applicants as less than distinguished. The injunctive proceeding portrayed them as being in gross dereliction of their fiduciary responsibility to Advance Growth and its shareholders. Their subsequent conduct continued to show a disregard of the high standards of business ethics required of those in the securities industry.

I conclude under the circumstances disclosed by the record in these proceedings that it would not be consistent with the public interest and the protection of investors to grant the applicants an exemption from the provisions of Section 9(a).

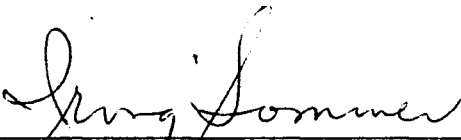
Accordingly, IT IS ORDERED that the application of Peter D. Giachini and John J. Murphy for an exemption pursuant to Section 9(c) of the Act from the provisions of Section 9(a) of the Act be, and it hereby is denied.^{12/}

This order shall become effective in accordance with and subject to the provisions of Rule 17(f) of the Rules of Practice.

Pursuant to Rule 17(f) of the Rules of Practice, this initial decision shall become the final decision of the Commission as to each party who has not, within fifteen days

^{12/} All proposed findings and conclusions submitted by the parties have been considered, as have their contentions. To the extent such proposals and contentions are consistent with the initial decision they are accepted.

after service of this initial decision upon him, filed a petition for review of this initial decision pursuant to Rule 17(b), unless the Commission, pursuant to Rule 17(c) determines on its own initiative to review this initial decision as to him. If a party timely files a petition for review, or the Commission takes action to review as to a party, the initial decision shall not become final with respect to that party.



Irving Sommer
Administrative Law Judge

Washington, D.C.
January 16, 1978