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Decision No. 85125

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own Motion into the operations,
rates, charges, and practices of
HAROLD E. SMITH, an individual,
and HEALTH ENTERPRISES CORPORATION,
a New York corporation, doing
business as LASSEN FOODS, INC.

Case No. 9756

ORDER EXTENDING TIME

Decision No. 84581 dated June 24, 1975 in this proceeding ordered Harold E. Smith (Smith), among other things, to collect \$15,585.58 in undercharges from Health Enterprises Corporation, doing business as Lassen Foods, Inc. (Lassen), to pay a fine in the amount of the undercharges, and to pay a punitive fine of \$500. Both fines were to be paid by August 29, 1975. The punitive fine was paid prior to this date. The undercharges have not been collected, and the fine in the amount thereof has not been paid.

By letter dated September 18, 1975, Smith requests an extension of time of one year within which to collect the undercharges from Lassen and to pay the fine based thereon. The letter states that Smith will not have the funds available to pay this fine until the undercharges are collected; that Lassen has acknowledged responsibility for the undercharges; and that because of insufficiency of funds, Lassen has agreed to pay the fine in installments over a one-year period.

The request should be made subject to a condition requiring Smith, because of the extension of time, to file a guarantee with the Commission within seven days after the date hereof that the Statute of Limitations will not be relied upon to avoid the payment of any of the undercharges in issue. The order will be made effective on the date on which the guarantee is filed, and in the event it is not filed within the specified time, it will be automatically vacated.

Subject to the aforementioned condition, we find that the request is reasonable and conclude that it should be granted.

IT IS ORDERED that:

Subject to the following condition, Harold E. Smith may collect the \$15,585.58 in undercharges and pay the fine in the amount thereof referred to in Ordering Paragraphs 3 and 2, respectively, of Decision No. 84581 in eleven installments of \$1,298.80 each and a twelfth installment of \$1,298.78, with the first installment on the undercharges to be collected on or before December 1, 1975 and the first installment on the fine to be paid on or before December 5, 1975 and remaining installments on the undercharge collections and the fine payments due on the same dates of each succeeding month.

Condition: Harold E. Smith shall file with the Commission within seven days after the date hereof a guarantee that the Statute of Limitations will not be relied upon as a possible means of avoiding any of the aforementioned installments.

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The effective date of this order shall be the date on which the guarantee referred to in the above paragraph is filed with the Commission, and in the event the guarantee is not filed within the specified time, this order shall be automatically vacated.

Dated at San Francisco, California, this 18th
day of NOVEMBER, 1975.

William J. Stanger President
Vernon L. Stanger
John
Paul Commissioners