

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

COMMISSIONERS: Timothy J. Muris, Chairman
Sheila F. Anthony
Mozelle W. Thompson
Orson Swindle
Thomas B. Leary

_____)	
In the Matter of)	
)	
SHELL OIL COMPANY,)	
a corporation,)	
)	Docket No. _____
and)	
)	
PENNZOIL-QUAKER STATE COMPANY,)	
a corporation.)	
)	
_____)	

DECISION AND ORDER

The Federal Trade Commission (“Commission”), having initiated an investigation of the proposed merger involving Respondent Shell Oil Company and Respondent Pennzoil-Quaker State Company, hereinafter referred to as “Respondents,” and Respondents having been furnished thereafter with a copy of a draft Complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondents with violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondents, their attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Orders (“Consent Agreement”), containing an admission by Respondents of the Commission’s jurisdiction over the proposed merger and the Commission’s authority to issue such orders, and the Commission having found that the proposed merger as described in the Complaint is 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, as amended, 15 U.S.C. § 45; and

should issue stating its charges in that respect, and having thereupon issued its Complaint and an Order to Hold Separate and Maintain Assets, and having accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the

affiliates controlled by Shell (including, but not limited to, Shell ND Company); and the respective officers, directors, employees, agents, representatives, successors, and assigns of each.

- E. “Respondents” means Shell and Pennzoil, individually and collectively, and the Person resulting from the Merger.
- F. “Acquirer” means the Person who acquires pursuant to Paragraph II or IV of this Order.
- G. “Base Oil” means paraffinic-based lubricant stock of all types, grades, viscosities, and qualities suitable for blending into finished oils (*e.g.*, passenger car motor oil, heavy duty engine oil, automatic transmission fluid, hydraulic fluids, or gear oils).
- H. “Commission” means the Federal Trade Commission.
- I. “Conoco” means Conoco Inc., a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 600 North Dairy Ashford, Houston, TX 77079, its officers, directors, employees, agents and representatives, successors, and assigns; its parents, joint ventures, subsidiaries, divisions, groups and affiliates controlled by Conoco, and the respective officers, directors, employees, agents, representatives, successors, and assigns of each.
- J. “Effective Date of Divestiture” means the date on which the applicable divestiture is consummated.
- K. “Excel Paralubes” means the joint venture formed by agreement dated August 2, 1994, between Atlas and Conoco, which produces Base Oil at a facility in Westlake, LA, and which is operated by Conoco.
- L. “Existing Customer Supply Agreements” means all agreements in effect as of the date Respondents execute the Consent Agreement, between Pennzoil and/or Atlas and any Person other than Pennzoil or Atlas for Base Oil produced by Excel Paralubes.
- M. “ExxonMobil/Pennzoil Base Oil Agreement” means the base oil supply agreement dated as of May 4, 2000, between Pennzoil and Exxon Mobil Corporation, and any amendments or successors to such agreement.
- N. “Group II Base Oil” means Base Oil that meets the necessary sulfur, saturates and viscosity index standards for Group II Base Oil established by the American Petroleum Institute, specifically (1) less than 0.03% sulfur by weight, (2) greater

II Base Oil, other than an agreement as provided in Paragraph II.B. of this Order.
Provided, however,

approves the trust agreement described in Paragraph IV.C.3. to accomplish the divestiture, which shall be subject to prior approval of the Commission. If, however, at the end of the twelve-month period, the Trustee has submitted a plan of divestiture or believes that divestiture can be achieved

approval by the Commission and, in the case of a court-appointed Trustee, by the court, of the account of the Trustee, including fees for his or her services, all remaining monies shall be paid at the direction of the Respondents, and the Trustee's power shall be terminated. The Trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the Trustee's divesting the assets to be divested.

8. Respondents shall indemnify the Trustee and hold the Trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the Trustee.
9. If the Trustee ceases to act or fails to act diligently, a substitute Trustee shall be appointed in the same manner as provided in Paragraph IV.C. of this Order.
10. The Commission or, in the case of a court-appointed Trustee, the court may on its own initiative or at the request of the Trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this Order.
11. The Trustee shall have no obligation or authority to operate or maintain the assets required to be divested by this Order.
12. The Trustee shall report in writing to Respondents and to the Commission every sixty (60) days concerning the Trustee's efforts to accomplish the divestiture.
13. Respondents may require the Trustee to sign a customary confidentiality agreement; *provided, however*, such agreement shall not restrict the trustee

V.

IT IS FURTHER ORDERED that:

- A. Within thirty (30) days after the date this Order becomes final, and every thirty (30) days thereafter until Respondents have fully complied with Paragraphs II and IV of this Order, Respondents shall submit to the Commission a verified written report setting forth in detail the manner and form in which they have complied, are complying, and will comply with this Order. Respondents shall include in their compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with the Order, including a description of all substantive contacts or negotiations for the divestiture and the identity of all parties contacted. Respondents shall include in their compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture.
- B. One (1) year from the date this Order becomes final, annually for the next nine (9) years on the anniversary of the date this Order becomes final, and at other times as the Commission may require, Respondents shall file a verified written report with the Commission setting forth in detail the manner and form in which they have complied and are complying with Paragraphs II, III, IV, and VI of this Order.

VI.

IT IS FURTHER ORDERED that Respondents shall notify the Commission at least thirty (30) days prior to any proposed change in either corporate Respondent such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in the corporation that may affect compliance obligations arising out of the Order.

VII.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order, and subject to any legally recognized privilege, and upon written request with reasonable notice to Respondents made to their principal United States offices, Respondents shall permit any duly authorized representative of the Commission:

- A. Access, during office hours of Respondents and in the presence of counsel, to all facilities, and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda and all other records and documents in the possession or under the control of Respondents relating to any matters contained

in this Order; and

- B. Upon five (5) days' notice to Respondents and without restraint or interference from Respondents, to interview officers, directors, or employees of Respondents, who may have counsel present, regarding any such matters.

VIII.

IT IS FURTHER ORDERED that this Order shall terminate ten (10) years from the date the Order becomes final.

By the Commission.

Donald S. Clark
Secretary

SEAL
ISSUED: