



Office of the Secretary

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

December 17, 2004

S.M. Oliva  
President, Citizens for Voluntary Trade  
Post Office Box 66  
Arlington, Virginia 22210

Re: *In the Matter of Buckeye Partners, L.P. and Shell Oil Company, File No. 041 0162*

Dear Mr. Oliva:

Thank you for your comments on behalf of Citizens for Voluntary Trade (“CVT”) regarding the proposed consent order accepted by the Federal Trade Commission for public comment in the above-captioned matter. Your letter indicates that CVT opposes the proposed settlement. Your letter also recommends that the Chairman of the Commission, The Honorable Deborah Platt Majoras, recuse herself from voting on the final order in this matter because, in your view, she “has a potential conflict that might unduly influence her actions in this case.” In your view, that purported conflict stems from the fact that the Chairman has been serving under a recess appointment and that it “could be argued that Chairman Majoras’ decision [in the case] was influenced by her personal interest in obtaining Senate confirmation.”

Conflict of interest rules did not require Chairman Majoras to recuse herself from participating in this matter. Your argument, however, seems to suggest that she should have recused herself to avoid even the appearance of a conflict of interest. The apparent theory of your argument would suggest that a recess appointee should not participate in any matter of particular interest to a single Senator. In fact, that Chairman Majoras has been serving under a recess appointment provides absolutely no basis for thinking that she would be anything less than completely impartial in her decision-making.

In any event, the argument is now moot. On November 21, 2004, the U.S. Senate unanimously confirmed Chairman Majoras’s nomination to serve as a Federal Trade Commissioner, and she will continue to serve as Chairman.

The Commission has reviewed your comments; has placed your comments on the public record; and has determined that the public interest would best be served by issuing the Decision and Order in final form without modification. A copy of the final Decision and Order is enclosed for your information. Relevant materials also are available from the Commission's website at <http://www.ftc.gov>.

By direction of the Commission.

Donald S. Clark  
Secretary