

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Jon Leibowitz, Chairman
J. Thomas Rosch
Edith Ramirez
Julie Brill

In the Matter of)	
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)	
CARPENTER TECHNOLOGY CORPORATION)	Docket No. C-4349
a corporation;)	
)	
and)	
)	
LATROBE SPECIALTY METALS, INC.)	
a corporation.)	
)	

ORDER TO MAINTAIN ASSETS

The Federal Trade Commission (“Commission”), having initiated an investigation of the proposed acquisition by Respondent Carpenter Technology Corporation (“Carpenter”) of 100 percent of the outstanding voting securities of Respondent Latrobe Specialty Metals, Inc. (“Latrobe”) from HHEP-Latrobe, L.P., and Respondents having been furnished thereafter with a copy of a draft of Complaint that the Bureau of Competition proposed to present to the Commission for its consideration and that, 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 all the jurisdictional facts set forth in the aforesaid draft of Complaint, a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined to accept the executed Consent Agreement and to place 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 procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby issues its Complaint, makes the following jurisdictional findings and issues this Order to Maintain Assets:

1. Respondent Carpenter Technology Corporation is a corporation organized, existing and doing business under and by virtue of the laws of State of Delaware, with its headquarters address located at 101 West Bern Street, Reading,

- D. “Decision and Order” means the:
1. Proposed Decision and Order contained in the Consent Agreement in this matter until the issuance of a final Decision and Order by the Commission; and
 2. Final Decision and Order issued by the Commission following the issuance and service of a final Decision and Order by the Commission.
- E. “Interim Monitor” means any monitor appointed pursuant to Paragraph III of this Order to Maintain Assets or Paragraph III of the Decision and Order.
- F. “Orders” means the Decision and Order and this Order to Maintain Assets.
- G. “Commission” means the Federal Trade Commission.
- H. “Specialty Metals Product Business(es)” means Respondent Latrobe’s business throughout the United States of America related to all of the Specialty Metals Products, including the research, Development, manufacture, distribution, marketing, and sale of each Specialty Metals Product and the assets related to such business, including, but not limited to, the Specialty Metals Product Assets.
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are necessary to permit Respondents to divest the Specialty Metals Product Assets required to be divested pursua

6. Respondents shall provide the Specialty Metals Product Business with such funds as are necessary to maintain the full economic viability, marketability and competitiveness of the Specialty Metals Product Business; and
 7. Respondents shall provide such support services to the Specialty Metals Product Business as were being provided to these Business by Respondents as of the date the Consent Agreement was signed by Respondents.
- D. Until Respondents fully deliver the Specialty Metals Product Assets to the Acquirer, Respondents shall maintain a work force at least as equivalent in size, training, and expertise to what has been associated with the Specialty Metals Products for the relevant Specialty Metals Product's most recent Pre-Acquisition Marketing Plan.
- E. Respondents shall, during the Specialty Metals Product Employee Access Period, not interfere with the hiring or employing by the Acquirer of Specialty Metals Product Core Employees, and shall remove any impediments within the control of Respondents that may deter these employees from accepting employment with such Acquirer, including, but not limited to, any non-compete or non-disclosure provisions of employment or other contracts with Respondents that would affect the ability or incentive of those individuals to be employed by such Acquirer. In addition, Respondents shall not make any counteroffer to a Specialty Metals Product Core Employee who receives a written offer of employment from the Acquirer;
- provided, however,* subject to the conditions of continued employment prescribed in this Order, this Paragraph II.E. shall not prohibit Respondents from continuing to employ any Specialty Metals Product Core Employee under the terms of such employee's employment with Respondents prior to the date of the written offer of employment from the Acquirer to such employee.
- F. Respondents shall adhere to and abide by the Remedial Agreements (which agreements shall not limit or contradict, or be construed to limit or contradict, the terms of the Orders, it being understood that nothing in the Orders shall be construed to reduce any obligations of Respondents under such agreement(s)), which are incorporated by reference into this Order to Maintain Assets and made a part hereof.
- G. The purpose of this Order to Maintain Assets is to maintain the full economic viability, marketability and competitiveness of the Specialty Metals Product Business through its full and complete delivery to the Acquirer, to minimize any risk of loss of competitive potential for the Specialty Metals Product Business, and to prevent the destruction, removal, wasting, deterioration, or impairment of any of the Specialty Metals Product Assets except for ordinary wear and tear.

III.

IT IS FURTHER ORDERED that:

- A. At any time after Respondents sign the Consent Agreement in this matter, the Commission may appoint an Interim Monitor to assure that Respondents expeditiously comply with all of their obligations and perform all of their responsibilities as required by the Orders and the Remedial Agreements. The Commission may appoint one or more Interim Monitors to assure Respondents' compliance with the requirements of the Orders, and the related Remedial Agreements.
- B. The Commission shall select the Interim Monitor, subject to the consent of Respondent Carpenter, which consent shall not be unreasonably withheld. If Respondent Carpenter has not opposed, in writing, including the reasons for opposing, the selection of a proposed Interim Monitor within ten (10) days after notice by the staff of the Commission to Respondent Carpenter of the identity of any proposed Interim Monitor, Respondents shall be deemed to have consented to the selection of the proposed Interim Monitor.
- C. Not later than ten (10) days after the appointment of the Interim Monitor, Respondents shall execute an agreement that, subject to the prior approval of the Commission, confers on the Interim Monitor all the rights and powers necessary to permit the Interim Monitor to monitor Respondents' compliance with the relevant requirements of the Orders in a manner consistent with the purposes of the Orders.
- D. If one or more Interim Monitors are appointed pursuant to this Paragraph or pursuant to the relevant provisions of the Decision and Order in this matter, Respondents shall consent to the following terms and conditions regarding the powers, duties, authorities, and responsibilities of each Interim Monitor:
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- b. with respect to each Specialty Metal Product, the date the Acquirer has obtained or achieved all Product Approvals and Specifications necessary to manufacture, market, import, export, and sell such Specialty Metal Product for use for aerospace applications and is able to manufacture such Specialty Metal Product in commercial quantities independently of Respondents;

provided, however, that the Interim Monitor's service shall not exceed five (5) years from the date the Decision and Order is issued;

provided further, that the Commission may shorten or extend this period as may be necessary or appropriate to accomplish the purposes of the Orders.

- E. Subject to any demonstrated legally recognized privilege, the Interim Monitor shall have full and complete access to Respondents' personnel, books, documents, records kept in the normal course of business, facilities and technical information, and such other relevant information as the Interim Monitor may require to monitor Respondents' compliance with their obligations under the Orders, including, but not limited to, their obligations related to the relevant assets. Respondents shall cooperate with any reasonable request of the Interim Monitor and shall take no action to interfere with or impede the Interim Monitor's ability to monitor Respondents' compliance with the Orders.

- F. The Interim Monitor shall serve, without bond or other security, at the expense of Respondents on such reasonable and customary terms and conditions as the Commission may set. The Interim Monitor shall have authority to employ, at the expense of the Respondents, such consultants, accountants, attorneys and other representatives and assistants as are reasonably necessary to carry out the Interim Monitor's duties and responsibilities.

and every ninety (90) days thereafter, the Interim Monitor shall report in writing to the Commission concerning progress by the Acquirer toward:

1. obtaining all of the relevant Product Approvals and Specifications necessary to manufacture in commercial quantities, the Specialty Metals Products independently of Respondents and;
 2. to secure sources of supply of the raw materials, inputs and components for the Specialty Metals Products from entities other than Respondents.
- I. Respondents may require the Interim Monitor and each of the Interim Monitor's consultants, accountants, attorneys and other representatives and assistants to sign a customary confidentiality agreement;

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however, that, after the Decision and Order becomes final and effective, the reports due under this Order to Maintain Assets shall be consolidated with, and submitted to the Commission at the same time as, the reports required to be submitted by Respondents pursuant to Paragraph V of the Decision and Order.

V.

IT IS FURTHER ORDERED that Respondents shall notify the Commission at least thirty (30) days prior to:

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VII.

IT IS FURTHER ORDERED that this Order to Maintain Assets shall terminate on the earlier of:

- A. Three (3) days after the Commission withdraws its acceptance of the Consent Agreement pursuant to the provisions of Commission Rule 2.34, 16 C.F.R. § 2.34; or
- B. The latter of:
 - 1. the day after the divestiture of all of the Specialty Metals Product Assets, as required by and described in the Decision and Order, has been completed and each Interim Monitor, in consultation with Commission staff and the Acquirer, notifies the Commission that all assignments, conveyances, deliveries, grants, licenses, transactions, transfers and other transitions related to such divestitures are complete, or the Commission otherwise directs that this Order to Maintain Assets is terminated; or
 - 2. the day after the day the Decision and Order becomes final and effective.

By the Commission.

Donald S. Clark
Secretary

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ISSUED: February 28, 2012