

UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairman  
Jon Leibowitz  
Julie Brill  
Maureen K. Ohlhausen  
Joshua D. Wright

\_\_\_\_\_)  
In the Matter of )  
 )  
OLTRIN SOLUTIONS, LLC )  
a company; )  
 )  
JCI JONES CHEMICALS, INC. )  
a corporation; )  
 )  
OLIN CORPORATION )  
a company; and )  
 )  
TRINITY MANUFACTURING, INC. )  
a corporation )  
\_\_\_\_\_)

Docket No. C-4388

DECISION AND ORDER  
[Redacted Public Version]

The Federal Trade Commission (“Commission”), having initiated an investigation of the transaction between Respondent Oltrin Solutions, LLC (“Oltrin”), a joint venture formed by Respondent Trinity Manufacturing, Inc. (“Trinity”) and a subsidiary of Respondent Olin Corporation (“Olin”), and Respondent JCI Jones Chemicals, Inc. (“JCI”), (Oltrin, JCI, Olin, and Trinity collectively, “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 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



## ORDER

### I.

**IT IS ORDERED** that, as used in the Order, the following definitions shall apply:

- A. “Oltrin” means Oltrin Solutions, LLC, its directors, officers, employees, agents, representatives, successors, and assigns; and its joint ventures, subsidiaries, divisions, groups and affiliates in each case controlled by Oltrin, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- B. “JCI” means, JCI Jones Chemicals, Inc., its directors, officers, employees, agents, representatives, successors, and assigns; and its joint ventures, subsidiaries, divisions, groups and affiliates in each case controlled by JCI, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- C. “Olin” means Olin Corporation, its directors, officers, employees, agents, representatives, successors, and assigns; and its joint ventures, subsidiaries, divisions, groups and affiliates in each case controlled by Oltrin, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- D. “Trinity” means Trinity Manufacturing, Inc., its directors, officers, employees, agents, representatives, successors, and assigns; and its joint ventures, subsidiaries, divisions, groups and affiliates in each case controlled by Oltrin, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- E. “Commission” means the Federal Trade Commission.
- F. “Agency(ies)” means any government regulatory authority or authorities in the world responsible for granting approval(s), specifications(s), clearance(s), qualification(s), license(s), or permit(s) for any aspect of the research, development, manufacture, marketing, distribution, or sale of Bleach.
- G. “Agreement to Contract Manufacture” means the agreement to manufacture, or to cause to be manufactured, Bleach on behalf of JCI. The Backup Supply Agreement included as part of Confidential Appendix A is an Agreement to Contract Manufacture.
- H. “Anticipated Volume” of a Bleach Contract means the amount of Bleach sales, in gallons, that is contained in the Oltrin 2012 Bleach Rolling Forecast prepared on September 6, 2012, as amended by Exhibit A to the Amendment to Asset Purchase Agreement.

- I. “Bleach” means sodium hypochlorite at a concentration level of no less than 10% by weight.
- J. “Bleach Contract” means any contract, purchase order or customer commitment for the delivery of Bleach to commercial, industrial or governmental customers in North Carolina or South Carolina.
- K. “Closing Date” means the date on which Oltrin (or a Divestiture Trustee, if one is appointed) releases JCI from all provisions of the JCI Agreement that prevent JCI from competing in the sale of Bleach to commercial, industrial or governmental customers in North Carolina or South Carolina pursuant to this Order.
- L. “Contract Manufacture” means to manufacture, or to cause to be manufactured, Bleach for JCI.
- M. “Customer” means any commercial, industrial or governmental purchaser of Bleach in North Carolina or South Carolina.
- N. “Direct Cost” means a cost not to exceed the cost of labor, material, freight and other expenditures to the extent the costs are directly incurred to provide the relevant assistance or service. The term “Direct Cost” *excludes* any allocation or absorption of excess or idle capacity.
- O. “Divestiture Trustee” means any trustee appointed by the Commission pursuant to the relevant provisions of this Order.
- P. “Government Entity” means any Federal, state, local or non-U.S. government, or any court, legislature, government agency, or government commission, or any judicial or regulatory authority of any government.
- Q. “Interim Monitor” means any monitor appointed pursuant to Paragraph IV of this Order.
- R. “JCI Agreement” means all agreements entered into between Oltrin and JCI in March 2010 related to JCI’s bulk Bleach business, including, but not limited to, the March 18, 2010, Asset Purchase Agreement, the March 26, 2010, Noncompetition, Nondisclosure and Nonsolicitation Agreement, the March 26, 2010, Oltrin Bleach Purchasing Agreement, and the March 26, 2010, JCI Bleach Purchasing Agreement.
- S. “JCI Amended Agreement” means the JCI Agreement as amended pursuant to this Order, including, but not limited to the Amendment to Asset Purchase Agreement and the Backup Supply Agreement attached to this Order as Confidential Appendix A.
- T.

- U. “Person” means any individual, partnership, joint venture, firm, corporation, association, trust, unincorporated organization, or other business or Government Entity, and any subsidiaries, divisions, groups or affiliates thereof.
- V. “Third Party(ies)” means any Person other than the Respondents.
- W. “Transaction” means Oltrin’s acquisition of assets of JCI in March 2010.
- X. “Transaction Date” means March 26, 2010, the date Respondents consummated the Transaction.
- Y. The terms “and” and “or” have both conjunctive and disjunctive meanings.

## II.

**IT IS FURTHER ORDERED** that:

- A. Not later than ten (10) days after the date the Commission accepts the Agreement Containing Consent Order for public comment, Respondent Oltrin shall release JCI from all provisions of the JCI Agreement that prevent JCI from competing in the sale of Bleach to Customers pursuant to, and in accordance with, the JCI Amended Agreement (which agreement shall not limit or contradict, or be construed to limit or contradict, the terms of this Order, it being understood that this Order shall not be construed to reduce any rights or benefits of JCI or to reduce any obligations of Respondent Oltrin under such agreements), which is incorporated by reference into this Order and made a part hereof;

*provided, however,* that if Oltrin has released JCI prior to the date the Order becomes final and effective, and if, at the time the Commission determines to make this Order final and effective, the Commission notifies Respondents that the manner in which the release was accomplished is not accep

*provided, however,* that Respondent JCI shall cooperate with Oltrin and work in good faith to facilitate the assignment of the Bleach Contracts;

*provided, further,* that Respondent Oltrin may

- C. Respondent Oltrin shall:
1. Contract Manufacture and deliver to JCI, in a timely manner and under reasonable terms and conditions pursuant to the Agreement to Contract Manufacture, a supply of Bleach at Respondent Oltrin's Direct Cost, for a period of no more than six months;
  2. make representations and warranties to JCI that the Bleach supplied through Contract Manufacture meets the specifications and quality for its intended use;
  3. for the Bleach supplied by Oltrin, agree to indemnify, defend and hold JCI harmless from any and all suits, claims, actions, demands, liabilities, expenses or losses alleged to result from the failure of the Bleach supplied by Oltrin to JCI to meet the relevant Limited Warranties set out in the Agreement to Contract Manufacture, as well as any related provisions, in the event that the Bleach manufactured by Oltrin and sold to JCI does not meet the Customer specifications. The Agreement to Contract Manufacture shall be consistent with the obligations assumed by Oltrin under this Order; *provided, however*, that Oltrin may reserve the right to control the defense of any such litigation, including the right to settle the litigation, so long as such settlement is consistent with Oltrin's responsibilities to supply Bleach in the manner required by this Order; *provided further*, that this obligation shall not require Oltrin to be liable for any negligent act or omission of JCI or for any representations and warranties, express or implied, made by JCI that exceed the representations and warranties made by Oltrin to JCI.
  4. Be responsible to JCI for any liabilities resulting from any Oltrin breach of its delivery obligations set forth in the Agreement to Contract Manufacture in accordance with that agreement and applicable law;
  5. during the term of the Agreement to Contract Manufacture, upon request of JCI or the Interim Monitor (if any has been appointed), make available to JCI and the Interim Monitor (if any has been appointed) all records that relate to the manufacture, storage, or transport of the Bleach supplied pursuant to the Agreement to Contract Manufacture that are generated or created after the Closing Date; and
  6. during the term of the Agreement to Contract Manufacture, maintain or cause to be maintained manufacturing facilities necessary to manufacture Bleach in North Carolina.
- D. Within thirty (30) days of the Closing Date, Respondents Oltrin and JCI shall jointly send to all Customers from whom Oltrin received a solicitation for a bid to supply Bleach since the Transaction Date, a notice in the form attached hereto as Appendix B indicating that JCI will be supplying Bleach in North Carolina and South Carolina

and requesting that the Customer add JCI's contact information to any future solicitation of bids.

- E. No later than ninety (90) days after the Closing Date, JCI will produce Bleach at its Charlotte, North Carolina plant using the Powell bleach machine referred to in Section 10.08 of the March 18, 2010, Asset Purchase Agreement, or with a machine of comparable specification, for the purpose of supplying Customers.



Respondent Oltrin 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, Respondent Oltrin 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 Order in a manner consistent with the purposes of the Order.
- D. If an Interim Monitor is appointed:
  - 1. the Interim Monitor shall have the power and authority to monitor Respondents' compliance with the obligations and related requirements of the Order, and shall exercise such power and authority and carry out the duties and responsibilities of the Interim Monitor in a manner consistent with the purposes of the Order and in consultation with the Commission;
  - 2. the Interim Monitor shall act in a fiduciary capacity for the benefit of the Commission; and
  - 3. the Interim Monitor shall serve until, the later of:
    - a. the assignment of all the Bleach Contracts required to be assigned by the Order; and
    - b. the end of the Agreement to Contract Manufacture;

*provided, however, that the Commission may shorten or extend this period as may be necessary or appropriate to accomplish the purposes of the Order.*
- 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 reasonably request, related to Respondents' compliance with its obligations under the Order, 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 Order.
- F. The Interim Monitor shall serve, without bond or other security, at the expense of Respondent Oltrin, 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 Respondent Oltrin, such consultants, accountants, attorneys and other

- representatives and assistants as are reasonably necessary to carry out the Interim Monitor's duties and responsibilities.
- G. Respondent Oltrin shall indemnify the Interim Monitor and hold the Interim Monitor harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Interim Monitor's duties, including all reasonable fees of counsel and other reasonable expenses incurred in connection with the preparations 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 gross negligence, willful or wanton acts, or bad faith by the Interim Monitor.
  - H. Respondents shall report to the Interim Monitor in accordance with the requirements of this Order and/or as otherwise provided in any agreement approved by the Commission. The Interim Monitor shall evaluate the reports submitted to the Interim Monitor by Respondents. Within thirty (30) days from the date the Interim Monitor receives these reports, the Interim Monitor shall report in writing to the Commission concerning performance by Respondents of its obligations under the Order.
  - 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; *provided, however*, that such agreement shall not restrict the Interim Monitor from providing any information to the Commission.
  - J. The Commission may, among other things, require the Interim Monitor and each of the Interim Monitor's consultants, accountants, attorneys and other representatives and assistants to sign an appropriate confidentiality agreement related to Commission materials and information received in connection with the performance of the Interim Monitor's duties.
  - K. If the Commission determines that the Interim Monitor has ceased to act or failed to act diligently, the Commission may appoint a substitute Interim Monitor in the same manner as provided in this Paragraph IV.
  - L. The Commission may on its own initiative, or at the request of the Commission, require the Interim Monitor to provide the Commission with a report on its performance under the Order.

**V.**

**IT IS FURTHER ORDERED** that:

- A. If Respondent Oltrin has not fully complied with the obligations of Paragraph II.A. or II.B. of this Order within the time provided by this Order, the Commission may



or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from gross negligence, willful or wanton acts, or bad faith by the Divestiture Trustee.

7. The Divestiture Trustee shall have no obligation or authority to operate or maintain the relevant assets required to be divested by this Order; *provided, however,* that the Divestiture Trustee appointed pursuant to this Paragraph may be the same Person appointed as Interim Monitor.
  8. The Divestiture Trustee shall report in writing to Respondents and to the Commission every sixty (60) days concerning the Divestiture Trustee's efforts to accomplish the divestiture.
  9. Respondents may require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, attorneys and other representatives and assistants to sign a customary confidentiality agreement; *provided, however,* such agreement shall not restrict the Divestiture Trustee from providing any information to the Commission.
- E. If the Commission determines that a Divestiture Trustee has ceased to act or failed to act diligently, the Commission may appoint a substitute Divestiture Trustee in the same manner as provided in this Paragraph.
- F. The Commission or, in the case of a court-appointed Divestiture Trustee, the court, may on its own initiative or at the request of the Divestiture Trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this Order.

## VI.

**IT IS FURTHER ORDERED** that:

- A. Within thirty (30) days after the date this Order is accepted for public comment, and every thirty (30) days thereafter until Respondent Oltrin has fully complied with Paragraphs II.A., II.B., II.C., and II.D. of this Order, Respondent Oltrin shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with this Order. Respondent Oltrin shall submit at the same time a copy of its report concerning compliance with this Order to the Interim Monitor, if any Interim Monitor has been appointed. Respondent Oltrin shall include in its reports, among other things that are required from time to time, a full description of the efforts being made to comply with the relevant Paragraphs of the Order, including a full description of all efforts to assign Bleach Contracts, including copies of all written communications to and from such Persons, all internal memoranda, and all reports and recommendations concerning completing the obligations.

- B. One (1) year after the date this Order becomes final, issued, annually for the next two (2) years on the anniversary of the date this Order becomes final, and at other times as the Commission may require, Respondent Oltrin shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and is complying with the Order.
- C. Within thirty (30) days after the date this Order is accepted for public comment, and every thirty (30) days thereafter until Respondent JCI has fully complied with Paragraph II.E. of this Order, Respondent JCI shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with this Order. Respondent JCI shall submit at the same time a copy of its report concerning compliance with this Order to the Interim Monitor, if any Interim Monitor has been appointed. Respondent shall include in its reports, among other things that are required from time to time, a full description of the efforts being made to comply with the relevant Paragraph of the Order, including a full description of all efforts to produce Bleach in the manner described in Paragraph II.E of this Order.

## **VII.**

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

- A. any proposed dissolution of a Respondent;
- B. any proposed acquisition, merger or consolidation of a Respondent; or
- C. any other change in a Respondent, including, but not limited to, assignment and the creation or dissolution of subsidiaries, if such change might affect compliance obligations arising out of this Order.

## **VIII.**

**IT IS FURTHER ORDERED** that:

- A. The JCI Amended Agreement shall be deemed incorporated into this Order.
- B. Any failure by Respondents Oltrin or JCI to comply with any term of the JCI Amended Agreement shall constitute a failure to comply with this Order.
- C. Respondents Oltrin and JCI shall include in the JCI Amended Agreement a specific reference to this Order, the remedial purposes thereof, and provisions to reflect the full scope and breadth of Respondent Oltrin's obligations to JCI pursuant to this Order.

- D. Respondent Oltrin shall not modify or amend any of the terms of the JCI Amended Agreement or the JCI Agreement without the prior approval of the Commission.

**IX.**

**IT IS FURTHER ORDERED** that, for purposes of determining or securing compliance with this Order, and subject to any legally recognized privilege, and upon written request and upon five (5) days notice to a Respondent made to its principal United States offices, registered office of its United States subsidiary, or its headquarters address, the Respondent shall, without restraint or interference, permit any duly authorized representative of the Commission:

- A. access, during business office hours of the Respondent 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 the Respondent related to compliance with this Order, which copying services shall be provided by the Respondent at the request of the authorized representative(s) of the Commission and at the expense of the Respondent; and
- B. to interview officers, directors, or employees of the Respondent, who may have counsel present, regarding such matters.

**X.**

**IT IS FURTHER ORDERED** that this Order shall terminate on March 7, 2023.

By the Commission, Commissioner Leibowitz not participating.

Richard C. Donohue  
Acting Secretary

SEAL  
ISSUED: March 7, 2013

**NON-PUBLIC APPENDIX A  
JCI AMENDED AGREEMENT**

**[Redacted From the Public Record Version, But Incorporated By Reference]**



**APPENDIX B  
FORM OF NOTICE**

[Customer Name & Address]

**Notice of JCI Jones Chemicals, Inc. Entry Into Bleach Market**

Oltrin Solutions LLC and JCI Jones Chemicals, Inc., pursuant to a settlement resolving a Federal Trade Commission investigation, jointly write to inform you that JCI Jones Chemicals, Inc. will once again be supplying Bleach in North Carolina and South Carolina, and to request that you include JCI Jones Chemicals, Inc. in any future communication soliciting bids for the supply of bleach, using the following contact information:

JCI Jones Chemicals, Inc.  
1819 Main St.  
Suite 1100  
Sarasota, FL 34236  
Fax:  
Email:

Thank you.

**Oltrin Solutions LLC**

**JCI Jones Chemicals, Inc.**