

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright
Terrell McSweeney

In the Matter of

Dollar Tree, Inc.,
a corporation;

and

Family Dollar Stores, Inc.,
a corporation.

issue stating its charges in that respect, and having thereupon issued its Complaint and Order to Maintain Assets, and having accepted the executed Consent Agreement and placed such Consent

- D. "Acquirer" means Sycamore ~~or~~ any entity approved by the Commission to acquire the Assets To Be Divested pursuant to this Order.
- E. "Acquisition" means Dollar Tree's proposed acquisition of Family Dollar pursuant to the Acquisition Agreement.
- F.

K. "Divestiture Trustee" means any person or entity appointed by the Commission pursuant to Paragraph IV of this Order to act as a trustee in this matter.

L.

- T. "Sycamore Divestiture Agreement" means the Asset Purchase Agreement dated as of May 28, 2015, by and between Respondents and Sycamore, attached as non-public Appendix I, for the divestiture of the Assets To Be Divested.
- U. "Third Party Consents" means all consents from any person other than the Respondents including all landlords, that are necessary to effect the complete transfer to the Acquirer(s) of the Assets To Be Divested.
- V. "Transition Services" means services related payroll, employee benefits, accounting, information technology systems, distribution, warehousing, use of trademarks or trade names for transitional purposes, and other logistical and administrative support required by the Acquirer and approved by the Commission.
- W. "Transition Services Agreement" means an agreement that receives the prior approval of the Commission between one or more Respondents and the Acquirer to provide, at the option of the Acquirer, Transition Services (or training for an Acquirer to provide services for itself) necessary to transfer the Assets To Be Divested to the Acquirer in a manner consistent with the purposes of this Order.

II.

IT IS FURTHER ORDERED that:

- A. No later than one hundred and fifty (50) days after the date on which the Acquisition is consummated, Respondents shall divest the Assets To Be Divested, absolutely and in good faith, as ongoing Dollar Store businesses, to Sycamore pursuant to and in accordance with the Sycamore Divestiture Agreement.
- B. *Provided, however,* that if, prior to the date this Order becomes final, Respondents have divested the Assets To Be Divested to Sycamore pursuant to Paragraph II.A of this Order and if, at the time the Commission determines to make this Order final, the Commission notifies Respondents that:

- 1. Sycamore is not an acceptable Acquirer, then Respondents shall, within five (5) days of

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- C. Respondents shall obtain at their sole expense all required Third Party Consents relating to the divestiture of all Assets To Be Divested prior to the Divestiture Date; *provided, however,* that for each of the Dollar Stores identified in Schedule Part III, that require landlord consent in order to effectuate the rapid divestiture, for each Dollar Store for which Respondents are unable to obtain the necessary landlord consent, Respondents may in consultation with the Monitor and Commission staff, substitute the corresponding Dollar Tree Dollar Store that is identified in Schedule Part III, in a manner specified by the Acquirer, but exclusive of the “Dollar Tree” name and any variation thereof, including similar trade names, symbols, trademarks, service marks, and logos.
- D. At the option of the Acquirer, and subject to the prior approval of the Commission, Respondents shall provide Transition Services to the Acquirer pursuant to a Transition Services Agreement for up to eighteen months.

Be Divested and to make offers of employment to any, or more of the employees of the Assets To Be Divested

- C. Not interfere, directly or indirectly, with the hiring or employing by Proposed Acquirer of any employee of the Assets To Be Divested not offer any incentive to such employees to decline employment with the

IV.

IT IS FURTHER ORDERED that:

- A. If Respondents have not divested the Assets To Be Divested in the time and manner required by Paragraph I of this Order, the Commission may appoint a Divestiture Trustee to divest the Assets To Be Divested in a manner that satisfies the requirements of this Order. In the event that the Commission or the Attorney General brings an action pursuant to the Federal Trade Commission Act, 15 U.S.C. § 45 (or any other statute enforced by the Commission), Respondents shall consent to the appointment of a Divestiture Trustee in such action. Neither the appointment of a Divestiture Trustee nor a decision not to appoint a Divestiture Trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court appointed Divestiture Trustee, pursuant to § 5 of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by the Respondents to comply with this Order.
- B. If a Divestiture Trustee is appointed by the Commission or a court pursuant to this Order, Respondents shall consent to the following terms and conditions regarding the Divestiture Trustee's powers, duties, authority, and responsibilities:
1. The Commission shall select the Divestiture Trustee, subject to the consent of Respondents, which consent shall not be unreasonably withheld. The Divestiture Trustee shall be a person with experience and expertise in acquisitions and divestitures. If Respondents have not opposed, in writing, including the reasons for opposing, the selection of any proposed Divestiture Trustee within ten (10) days after notice by the staff of the Commission to Respondents of the identity of any proposed Divestiture Trustee, Respondents shall be deemed to have consented to the selection of the proposed Divestiture Trustee.
 2. Subject to the prior approval of the Commission, the Divestiture Trustee shall have the exclusive power and authority to assign, grant, license, divest, transfer, contract, deliver, or otherwise convey the relevant assets or rights that are required to be assigned, granted, licensed, divested, transferred, contracted, delivered, or otherwise conveyed by this Order.
 3. Within ten (10) days after appointment of the Divestiture Trustee, Respondents shall execute a trust agreement that, subject to the prior approval of the Commission, transfers to the Divestiture Trustee all rights and powers necessary to permit the Divestiture Trustee to effect the relevant divestitures or transfers required by the Order.
 4. The Divestiture Trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph B.3. to accomplish the divestiture(s), which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period, the Divestiture Trustee has submitted a plan of divestiture or believes that the divestiture(s) can be completed within a reasonable

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 malfeasance, gross negligence, willful or wanton acts, or bad faith by the Divestiture Trustee.

this Order ("Order Term"), then to the extent that Respondents cannot fully comply with both terms, the Order Term shall determine Respondents' obligations under this Order.

VI.

IT IS FURTHER ORDERED that the Acquirer:

- A. Shall not, for a period of three (3) years from the Divestiture Date, sell, or otherwise convey, directly or indirectly without the prior approval of the Commission:
 - 1. Any of the Assets To Be Divested to Dollar Tree; or
 - 2. All or substantially all of the Assets To Be Divested to any Person
- B. Shall, within sixty (60) days after the Divestiture Date and every sixty (60) days thereafter, for a period of two (2) years from the Divestiture Date, submit to the Commission verified written reports identifying any Dollar Stores included in the Assets To Be Divested that have been or will be sold or closed, setting forth in detail the reasons why the Dollar Stores have been or will be sold or closed.

VII .

IT IS FURTHER ORDERED that:

- A. Within thirty (30) days after the date this Order is issued and every thirty (30) days thereafter until Respondents have fully complied with the provisions of Paragraphs III., and IV. of this Order, Respondents shall submit to the Commission and the Monitor verified written reports setting forth in detail the manner and form in which they intend to comply, are complying, and have complied with this Order. Respondents shall include in their reports, among other things that are required from time to time, a full description of the efforts being made to comply with this Order; and
- B. One (1) year from the date this Order is issued and annually for the next nine (9) years on the anniversary of the date this Order is issued,

C. Any other change in the respondents including but not limited to, assignment and the