

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

COMMISSIONERS: **Edith Ramirez, Chairwoman**
 Julie Brill
 Maureen K. Ohlhausen
 Terrell McSweeney

)	
In the Matter of)	
)	
ENDO INTERNATIONAL PLC,)	Docket C-4539
a corporation.)	
)	

DECISION AND ORDER
[Public Record Version]

The Federal Trade Commission (“Commission”), having initiated an investigation of the proposed acquisition by Endo International plc (“Endo” or “Respondent”) of the voting securities of Par Pharmaceutical Holdings, Inc. (“Par”), and Respondent having been furnished thereafter with a copy of a draft of Complaint that the Bureau of Competition proposed to present to the i3 consideration of public comments, now in further conformity with the procedure Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby makes th jurisdictional findings and issues the following Decision and Order (“Order”):

1.

2. a Person approved by the Commission to acquire particular assets or rights that the Respondent is required to assign, grant, license, divest, transfer, deliver, or otherwise convey pursuant to this Order.
- E. “Acquisition” means Respondent Endo’s acquisition of fifty percent (50%) or more of the voting securities of Par. Respondent has entered an *Agreement and Plan of Merger*, dated as of May 18, 2015, by and among Endo International plc, Endo Limited, Endo Health Solutions Inc., Banyuls Limited, Hawk Acquisition ULC, Par Pharmaceutical Holdings, Inc., and Shareholder Representative Services LLC in connection with the Acquisition, and has submitted a copy of this agreement to the Commission.
- F. “Acquisition Date” means the date on which the Acquisition is consummated.
- G. “Agency(ies)”

3. all Product Approvals related to the specified Divestiture Product;
4. all Product Manufacturing Technology related to the specified Divestiture Product that is not Product Licensed Intellectual Property;
5. all Product Marketing Materials related to the specified Divestiture Product;
6. all Product Scientific and Regulatory Material related to the specified Divestiture Product;
7. all Website(s) related exclusively to the specified Divestiture Product;
8. the content related exclusively to the specified Divestiture Product that is displayed on any Website that is not dedicated exclusively to the specified Divestiture Product;
9. for each specified Divestiture Product that has been marketed or sold by the Respondent prior to the Closing Date, a list of all of the NDC Numbers related to the specified Divestiture Product, and rights, to the extent permitted by Law:
 - a. to require Respondent to discontinue the use of those NDC Numbers in the sale or

16. at the option of the Acquirer of the specified Divestiture Product and to the extent approved by the Commission in the relevant Remedial Agreement, all inventory in existence as of the Closing Date including, but not limited to, raw materials, packaging materials, work-in-process and finished goods related to the specified Divestiture Product;
17. copies of all unfilled customer purchase orders for the specified Divestiture Product as of the Closing Date, to be provided to the Acquirer of the specified Divestiture Product not later than five (5) days after the Closing Date;
18. at the option of the Acquirer of the specified Divestiture Product, all unfilled customer purchase orders for the specified Divestiture Product; and,
19. all of the Respondent's books, records, and files directly related to the foregoing;

provided, however, that "Categorized Assets" shall not include: (i) documents relating to the Respondent's general business strategies or practices relating to the conduct of its Business of generic pharmaceutical Products, where such documents do not discuss with particularity the specified Divestiture Product; (ii) administrative, financial, and accounting records; (iii) quality control records that are determined not to be material to the manufacture of the specified Divestiture Product by the Interim Monitor or the Acquirer of the specified Divestiture Product; (iv) information that is exclusively related to the Retained Products; (v) any real estate and the buildings and other permanent structures located on such real estate; and (vi) all Product Licensed Intellectual Property;

provided further, however, that in cases in which documents or other materials included in the assets to be divested contain information: (i) that relates both to the specified Divestiture Product and to Retained Products or Businesses of the Respondent and cannot be segregated in a manner that preserves the usefulness of the information as it relates to the specified Divestiture Product; or (ii) for which the Respondent has a legal obligation to retain the original copies, the Respondent shall be required to provide only copies or relevant excerpts of the documents and materials containing this information. In instances where such copies are provided to the Acquirer of the specified Divestiture Product, the Respondent shall provide that Acquirer access to original documents under circumstances where copies of documents are insufficient for evidentiary or regulatory purposes. The purpose of this provision is to ensure that the Respondent provides the Acquirer with the above-described information without requiring the Respondent completely to divest itself of information that, in content, also relates to Retained Product(s).

- K. "cGMP" means current Good Manufacturing Practice as set forth in the United States Federal Food, Drug, and Cosmetic Act, as amended, and includes all rules and regulations promulgated by the FDA thereunder.

L. “Clinical Trial(s)”

P. “Contract Manufacture Product(s)” means:

1. the Glycopyrrolate Products;
2. the Methimazole Products; and,
3. any ingredient, material, or component used in the manufacture of the foregoing Products including the active pharmaceutical ingredient, excipients or packaging materials (including, without limitation, drug vials);

provided however, that with the consent of the Acquirer of the specified Product, the Respondent may substitute a therapeutic equivalent (as that term is defined by the FDA) form of such Product in performance of the Respondent’s agreement to Contract Manufacture.

Q. “Development” means all preclinical and clinical drug development activities (including formulation), including test method development and stability testing, toxicology, formulation, process development, manufacturing scale-up, development-stage manufacturing, quality assurance/quality control development, statistical analysis and report writing, conducting Clinical Trials for the purpose of obtaining any and all approvals, licenses, registrations or authorizations from any Agency necessary for the manufacture, use, storage, import, export, transport, promotion, marketing, and sale of a Product (including any government price or reimbursement approvals), Product approval and registration, and regulatory affairs related to the foregoing. “Develop” means to engage in Development.

R. “Direct Cost” means a cost not to exceed the cost of labor, material, travel and other expenditures to the extent the costs are directly incurred to provide the relevant assistance or service. “Direct Cost” to the Acquirer for its use of any of the Respondent’s employees’ labor shall not exceed the average hourly wage rate for such employee;

provided, however, in each instance where: (i) an agreement to divest relevant assets is specifically referenced and attached to this Order, and (ii) such agreement becomes a Remedial Agreement for a Divestiture Product, “Direct Cost” means such cost as is provided in such Remedial Agreement for that Divestiture Product.

S. “Divestiture Agreements” means the following:

1. *Asset Purchase Agreement* by and between Vintage Pharmaceuticals, LLC and Rising Pharmaceuticals, Inc. dated as of [insert], 2015;
2. *Supply Agreement* between Vintage Pharmaceuticals, LLC d/b/a Qualitest Pharmaceuticals and Rising Pharmaceuticals, Inc. attached to the *Asset Purchase Agreement* and to be executed on or before the Closing Date; and,

all amendments, exhibits, attachments, agreements, and schedules thereto, related to the Divestiture Product Assets that have been approved by the Commission to accomplish the requirements of this Order. The Divestiture Agreements are contained in Non-Public Appendix I.

- T. “Divestiture Product(s)” means the following, individually and collectively:
 - 1. the Glycopyrrolate Products; and,
 - 2. the Methimazole Products.

- U. “Divestiture Product Assets” means the following, individually and collectively:
 - 1. the Glycopyrrolate Product Assets; and
 - 2. ca4(c).

- X. “Divestiture Product Releasee(s)” means the following Persons:
1. the Acquirer for the assets related to a particular Divestiture Product;
 2. any Person controlled by or under common control with that Acquirer; and,
 3. any Manufacturing Designees, licensees, sublicensees, manufacturers, suppliers, distributors, and customers of that Acquirer, or of such Acquirer-affiliated entities.
- Y. “Divestiture Trustee” means the trustee appointed by the Commission pursuant to Paragraph IV of this Order.
- Z. “Domain Name” means the domain name(s) (universal resource locators), and registration(s) thereof, issued by any Person or authority that issues and maintains the domain name registration; *provided, however*, “Domain Name” shall not include any trademark or service mark rights to such domain names other than the rights to the Product Trademarks required to be divested.
- AA. “Drug Master File(s)” means the information submitted to the FDA as described in 21 C.F.R. Part 314.420 related to a Product.
- BB. “Geographic Territory” shall mean the United States of America, including all of its territories and possessions, unless otherwise specified.
- CC. “Glycopyrrolate Products” means the following: the Products manufactured, marketed, sold, in Development, owned or controlled by Respondent Endo pursuant to the following Application: ANDA Number 040821, and any supplements, amendments or revisions to this Application.
- DD. “Glycopyrrolate Product Assets” means all rights, title and interest in and to all assets related to the Business of Endo within the Geographic Territory related to each of the Glycopyrrolate Products, to the extent legally transferable, including, without limitation, the Categorized Assets related to the Glycopyrrolate Products.
- EE. “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.
- FF. “High Volume Account(s)” means any retailer, wholesaler or distributor whose annual or projected annual aggregate purchase amounts (on a company-wide level), in units or in dollars, of a Divestiture Product in the United States of America from the Respondent was, or is projected to be among the top twenty highest of such purchase amounts by the Respondent’s U.S. customers on any of the following dates: (i) the end of the last quarter that immediately preceded the date of the public announcement of the proposed

Acquisition; (ii) the end of the last quarter that immediately p

- QQ. “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.
- RR. “Product(s)” means any pharmaceutical, biological, or genetic composition containing any formulation or dosage of a compound referenced as its pharmaceutically, biologically, or genetically active ingredient and/or that is the subject of an Application.
- SS. “Product Approval(s)” means any approvals, registrations, permits, licenses, consents, authorizations, and other approvals, and pending applications and requests therefor, required by applicable Agencies related to the research, Development, manufacture, distribution, finishing, packaging, marketing, sale, storage or transport of a Product within the United States of America, and includes, without limitation, all approvals, registrations, licenses or authorizations granted in connection with any Application related to that Product.
- TT. “Product Contracts” means all of the following contracts or agreements (copies of each such contract to be provided to the Acquirer on or before the Closing Date and segregated in a manner that clearly identifies the purpose(s) of each such contract):
1. that make specific reference to the specified Divestiture Product and pursuant to which any Third Party is obligated to purchase, or has the option to purchase without further negotiation of terms, the specified Divestiture Product from the Respondent unless such contract applies generally to the Respondent’s sales of Products to that Third Party;
 2. pursuant to which the Respondent had or has as of the Closing Date the ability to independently purchase the active pharmaceutical ingredient(s) or other necessary ingredient(s) or component(s) or had planned to purchase the active pharmaceutical ingredient(s) or other necessary ingredient(s) or component(s) from any Third Party for use in connection with the manufacture of the specified Divestiture Product;
 3. relating to any Clinical Trials involving the specified Divestiture Product;
 4. with universities or other research institutions for the use of the specified Divestiture Product in scientific research;
 5. relating to the particularized marketing of the specified Dist8IRh(r)4-10earedr

7.

11. summary of Product complaints from customers related to the specified Divestiture Product;
12. Product recall reports filed with the FDA related to the specified Divestiture Product, and all reports, studies and other documents related to such recalls;
13. investigation reports and other documents related to any out of specification results for any impurities found in the specified Divestiture Product;
14. reports related to the specif(-2(fa0 1 Tf 0.(a)u(r)5((fa P)-ve s)-(p)-1(h)-4(fa0 (h)-4ur)-1(t)-6e4(r)

- c. a specific description of the employee's responsibilities related to the relevant Divestiture Product; *provided, however*, in lieu of this description, the Respondent may provide the employee's most recent performance appraisal;
 - d. the base salary or current wages;
 - e. the most recent bonus paid, aggregate annual compensation for the Respondent's last fiscal year and current target or guaranteed bonus, if any;
 - f. employment status (*i.e.*, active or on leave or disability; full-time or part-time);
 - g. and any other material terms and conditions of employment in regard to such employee that are not otherwise generally available to similarly situated employees;
3. at the Acquirer's option or the Proposed Acquirer's option (as applicable), copies of all employee benefit plans and summary plan descriptions (if any) applicable to the relevant employees.

XX. "Product Intellectual Property" means all of the following intellectual property related to a Divestiture Product (other than Product Licensed Intellectual Property) that is owned, licensed or controlled by Respondent as of the Closing Date:

1. Patents;
2. Product Copyrights;
3. Product Trademarks, Product Trade Dress, trade secrets, know-how, techniques, data, inventions, practices, methods, and other confidential or proprietary technical, business, research, Development and other information; and,
4. rights to obtain and file for patents, trademarks, and copyrights and registrations thereof and to bring suit against a Third Party for the past, present or future infringement, misappropriation, dilution, misuse or other violations of any of the foregoing;

provided, however, that "Product Intellectual Property" does not include the corporate names or corporate trade dress of "Endo" or "Par" or the related corporate logos thereof, or the corporate names or corporate trade dress of any other corporations or companies owned or controlled by the Respondent or the related corporate logos thereof, or general registered images or symbols by which Endo, or Par can be identified or defined.

YY. "Product Licensed Intellectual Property" means the following:

1. all of the following intellectual property related to a Divestiture Product that is owned, licensed or controlled by Respondent as of the Closing Date, as follows:
 - a. Patents that are related to a Divestiture Product that the Respondent can demonstrate have been used, prior to the Acquisition Date, for any Retained Product that is the subject of an active (not discontinued) NDA or ANDA as of the Acquisition Date;
 - b. trade secrets, know-how, techniques, data, inventions, practices, methods, and other confidential or proprietary technical, business, research, Development, and other information, and all rights in the Geographic Territory to limit the use or disclosure thereof, that are related to a Divestiture Product and that the Respondent can demonstrate have been used, prior to the Acquisition Date, for
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2. all ingredients, materials, or components used in the manufacture of that Product including the active pharmaceutical ingredient, excipients or packaging materials; and,
3. for those instances in which the manufacturing equipment is not readily available from a Third Party, at the Acquirer's option, all such equipment used to manufacture that Product.

BBB. "Product Marketing Materials" means all marketing materials used specifically in the marketing or sale of the specified Divestiture Product in the Geographic Territory as of the Closing Date, including, without limitation, all advertising materials, training materials, product data, mailing lists, sales materials (*e.g.*, detailing reports, vendor lists, sales data), marketing information (*e.g.*, competitor information, research data, market intelligence reports, statistical programs (if any) used for marketing and sales research), customer information (including customer net purchase information to be provided on the basis of either dollars and/or units for each month, quarter or year), sales forecasting

acquirer for particular assets or rights required to be assigned, granted, licensed, divested, transferred, delivered or otherwise conveyed pursuant to this Order.

HHH. “Remedial Agreement(s)” means the following:

1. any agreement between the Respondent and an Acquirer that is specifically referenced and attached to this Order, including all amendments, exhibits, attachments, agreements, and schedules thereto, related to the relevant assets or rights to be assigned, granted, licensed, divested, transferred, delivered, or otherwise conveyed, including without limitation, any agreement to supply specified products or components thereof, and that has been approved by the Commission to accomplish the requirements of the Order in connection with the Commission’s determination to make this Order final and effective;
2. any agreement between the Respondent and a Third Party to effect the assignment of assets or rights of the Respondent related to a Divestiture Product to the benefit of an Acquirer that is specifically referenced and attached to this Order, including all amendments, exhibits, attachments, agreements, and schedules thereto, that has been approved by the Commission to accomplish the requirements of the Order in connection with the Commission’s determination to make this Order final and effective;
3. any agreement between the Respondent and an Acquirer (or between a Divestiture Trustee and an Acquirer) that has been approved by the Commission to accomplish the requirements of this Order, including all amendments, exhibits, attachments, agreements, and schedules thereto, related to the relevant assets or rights to be assigned, granted, licensed, divested, transferred, delivered, or otherwise conveyed, including without limitation, any agreement by the Respondent to supply specified products or components thereof, and that has been approved by the Commission to accomplish the requirements of this Order; and/or
4. any agreement between the Respondent and a Third Party to effect the assignment of assets or rights of the Respondent related to a Divestiture Product to the benefit of an Acquirer that has been approved by the Commission to accomplish the requirements of this Order, including all amendments, exhibits, attachments, agreements, and schedules thereto.

III. “Retained Product”

the ability to make available the underlying raw data from the investigation, Product Development Reports, or Product Scientific and Regulatory Material for FDA audit, if necessary.

KKK. “Rising” means Rising Pharmaceuticals, Inc., a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its executive

- a. manufacture the specified Divestiture Product in the quality and quantities achieved by the Respondent, or the manufacturer and/or developer of such Divestiture Product;
 - b. obtain any Product Approvals necessary for the Acquirer or its Manufacturing Designee, to manufacture, distribute, market, and sell the specified Divestiture Product in commercial quantities and to meet all Agency-approved specifications for such Divestiture Product; and
 - c. receive, integrate, and use all such Product Manufacturing Technology and all such intellectual property related to the specified Divestiture Product.
- NNN. “Third Party(ies)” means any non-governmental Person other than the following: the Respondent; Par; or, the Acquirer of particular assets or rights pursuant to this Order.
- OOO. “Website” means the content of the Website(s) located at the Domain Names, the Domain Names, and all copyrights in such Website(s), to the extent owned by the Respondent; *provided, however*, “Website” shall not include the following: (1) content owned by Third Parties and other Product Intellectual Property not owned by the Respondent that are incorporated in such Website(s), such as stock photographs used in the Website(s), *except* to the extent that the Respondent can convey its rights, if any, therein; or (2) content unrelated to any of the Divestiture Products.

II.

IT IS FURTHER ORDERED that:

- A. Not later than ten (10) days after the Acquisition Date, Respondent shall divest the Divestiture Product Assets and grant the related Divestiture Product License, absolutely and in good faith, to Rising pursuant to, and in accordance with, the Divestiture Agreements (which agreements 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 Rising

Acquirer that receives the prior approval of the Commission, and only in a manner that receives the prior approval of the Commission;

or are able to locate such information for the purposes of identifying the books, records, and files directly related to the Divestiture Products acquired by that Acquirer that contain such Confidential Business Information and facilitating the delivery in a manner consistent with this Order;

4. not use, directly or indirectly, any such Confidential Business Information related to the Business of the Divestiture Products other than as necessary to comply with the following:

- a. the requirements of this Order

Product Manufacturing Technology. Not later than ten (10) days after the Closing Date, Respondent shall grant a release to each Third Party that is subject to such agreements that allows the Third Party to provide the relevant Product Manufacturing Technology to that Acquirer. Within five (5) days of the execution of each such release, Respondent shall provide a copy of the release to that Acquirer.

F. Respondent shall:

1. upon reasonable written notice and request from the Acquirer to Respondent,

liability resulting from the failure of the Contract Manufacture Products supplied to the Acquirer pursuant to such Remedial Agreement to meet cGMP;

3. give priority to supplying a Contract Manufacture Product to the Acquirer over manufacturing and supplying of Products for Respondent's own use or sale;
4. make representations and warranties to each Acquirer that Respondent shall hold harmless and indemnify the Acquirer for any liabilities or loss of profits resulting from the failure of the Contract Manufacture Products to be delivered in a timely manner as required by the Remedial Agreement(s) unless Respondent can demonstrate that the failure was beyond the control of Respondent and in no part the result of negligence or willful misconduct by Respondent;

provided, however, that in each instance where: (i) an agreement to divest relevant assets or Contract Manufacture is specifically referenced and attachu)16()-8Td [(as 0 .0.003 T4

Acquirer (or the Manufacturing Designee of that Acquirer) to obtain all Product Approvals to manufacture the Contract Manufacture Products in the same quality achieved by, or on behalf of, the Respondent and in commercial quantities, and in a manner consistent with cGMP, independently of Respondent and Par and sufficient to satisfy management of the Acquirer that its personnel (or the Manufacturing Designee's personnel) are adequately trained in the manufacture of the Contract Manufacture Products;

The foregoing provisions, II.F.1. - 9., shall remain in effect with respect to each Contract Manufacture Product until the earliest of: (i) the date the Acquirer (or the Manufacturing Designee(s) of that Acquirer) is approved by the FDA to manufacture and sell such Contract Manufacture Product in the United States and able to manufacture such Contract Manufacture Product in commercial quantities, in a manner consistent with cGMP, independently of Respondent; (ii) the date the Acquirer notifies the Commission and Respondent of its intention to abandon its efforts to manufacture the relevant Contract Manufacture Product; (iii) the date of written notification from staff of the Commission that the Interim Monitor, in consultation with staff of the Commission, has determined that the Acquirer has abandoned its efforts to manufacture the relevant Contract Manufacture Product, or (iv) the date five (5) years from the Closing Date.

- G. Respondent shall require, as a condition of continued employment post-divestiture of the assets required to be divested pursuant to this Order, that each employee that has had responsibilities related to the marketing or sales of the Divestiture Products within the one (1) year period prior to the Closing Date and each employee that has responsibilities related to the marketing or sales of those Retained Products that are the therapeutic equivalent (as that term is defined by the FDA) of the Divestiture Products, in each case who have or may have had access to Confidential Business Information, and the direct supervisor(s) of any such employee sign a confidentiality agreement pursuant to which that employee shall be required to maintain all Confidential Business Information related to the Divestiture Products as strictly confidential, including the nondisclosure of that information to all other employees, executives or other personnel of Respondent (other than as necessary to comply with the requirements of this Order).

- H. Not later than thirty (30) days after the Closing Date, Respondent shall provide written notification of the restrictions on the use and disclosure of the Confidential Business Information related to the Divestiture Products by Respondent's personnel to all of its employees who (i) may be in possession of such Confidential Business Information or (ii)

stating that the acknowledgment program has been implemented and is being complied with. Respondent shall provide the Acquirer with copies of all certifications, notifications and reminders sent to Respondent's personnel.

I. Respondent shall:

1. for a period of twelve (12

Core Employee who has received a written offer of employment from that Acquirer or its Manufacturing Designee;

provided, however, that, subject to the conditions of continued employment prescribed in this Order, this Paragraph shall not prohibit Respondent from continuing to employ any Divestiture Product Core Employee under the terms of that employee's employment with Respondent prior to the date of the written offer of employment from the Acquirer or its Manufacturing Designee to that employee;

4. until the Closing Date, provide all Divestiture Product Core Employees with reasonable financial incentives to continue in their positions and to research, Develop, manufacture and/or market the Divestiture Product(s) consistent with past practices and/or as may be necessary to preserve the marketability, viability and competitiveness of the Divestiture Product(s) and to ensure successful execution of the pre-Acquisition plans for that Divestiture Product(s). Such incentives shall include a continuation of all employee compensation and benefits offered by Respondent until the Closing Date(s) for the divestiture of the assets related to the Divestiture Product has occurred, including regularly scheduled raises, bonuses, and vesting of pension benefits (as permitted by Law);

provided, however, that this Paragraph does not require nor shall be construed to require Respondent to terminate the employment of any employee or to prevent Respondent from continuing to employ the Divestiture Product Core Employees in connection with the Acquisition; and

5. for a period of one (1) year from the Closing Date, not, directly or indirectly, solicit or otherwise attempt to induce any employee of the Acquirer or its Manufacturing Designee with any amount of responsibility related to a Divestiture Product ("Divestiture Product Employee") to terminate his or her employment relationship with the Acquirer or its Manufacturing Designee; or hire any Divestiture Product Employee;

provided, however, Respondent may hire any former Divestiture Product Employee whose employment has been terminated by the Acquirer or its Manufacturing Designee or who independently applies for employment with the Respondent, as long as that employee was not solicited in violation of the nonsolicitation requirements contained herein;

provided further, however, that the Respondent may do the following: (i) advertise for employees in newspapers, trade publications or other media not targeted specifically at the Divestiture Product Employees; or (ii) hire a Divestiture Product Employee who contacts the Respondent on his or her own initiative without any direct or indirect solicitation or encouragement from the Respondent.

J.

2. waive conflicts of interest, if any, to allow the Respondent's outside legal counsel to represent that Acquirer in any ongoing patent litigation related to that Divestiture Product; and
 3. permit the transfer to that Acquirer of all of the litigation files and any related attorney work-product in the possession of the Respondent's outside counsel related to that Divestiture Product.
- N. The purpose of the divestiture of the Divestiture Product Assets and the provision of the related Product Manufacturing Technology and the related obligations imposed on the Respondent by this Order is:
1. to ensure the continued use of such assets for the purposes of the Business associated with each Divestiture Product within the Geographic Territory; and
 2. to create a viable and effective competitor, that is independent of Respondent and Par in the Business of each Divestiture Product within the Geographic Territory; and,
 3. to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's Complaint in a timely and sufficient manner.

III.

IT IS FURTHER ORDERED that:

- A. At any time after the Respondent signs the Consent Agreement in this matter, the Commission may appoint a monitor ("Interim Monitor") to assure that the Respondent expeditiously complies with all of its obligations and perform all of its responsibilities as required by this Order, the Order to Maintain Assets and the Remedial Agreements.
- B. The Commission shall select the Interim Monitor, subject to the consent of Respondent, which consent shall not be unreasonably withheld. If Respondent 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 of the identity of any proposed Interim Monitor, Respondent 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 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 Respondent's compliance with the relevant requirements of the Order in a manner consistent with the purposes of the Order.

Respondent, 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 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. Respondent shall report to the Interim Monitor in accordance with the requirements of this Order and as otherwise provided in any agreement approved by the C-2C10(e-2(t)(qui2(he)2)-20

- L. The Commission may on its own initiative, or at the request of the Interim Monitor, issue such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of the Order.
- M. The Interim Monitor appointed pursuant to this Order may be the same Person appointed

1. Subject to the prior approval of the Commission, the Divestiture Trustee shall have the exclusive power and authority to assign, grant, license, divest, transfer, deliver or otherwise convey the assets that are required by this Or

responsibilities. The Divestiture Trustee shall account for all monies derived from the divestiture and all expenses incurred. After a7a2rom

- G. 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.

V.

IT IS FURTHER ORDERED that, in addition to any other requirements and prohibitions relating to Confidential Business Information in this Order, Respondent shall assure that its own counsel (including its own in-house counsel under appropriate confidentiality arrangements) shall not retain unredacted copies of documents or other materials provided to an Acquirer or access original documents provided to an Acquirer, except under circumstances where copies of documents are insufficient or otherwise unavailable, and for the following purposes:

- A. To assure Respondent's compliance with any Remedial Agreement, this Order, any Law (including, without limitation, any requirement to obtain regulatory licenses or approvals, and rules promulgated by the Commission), any data retention requirement of any applicable Government Entity, or any taxation requirements; or
- B. To defend against, respond to, or otherwise participate in any litigation, investigation, audit, process, subpoena or other proceeding relating to the divestiture or any other aspect of the Divestiture Products or the assets and Businesses associated with those Divestiture Products;

provided, however, that the Respondent may disclose such information as necessary for the purposes set forth in this Paragraph V pursuant to an appropriate confidentiality order, agreement or arrangement;

provided further, however, that purorun-1(s)-1(eon-1(sbls)-2 ot)-2 a

- C. Respondent shall include in each Remedial Agreement related to each of the Divestiture Products a specific reference to this Order, the remedial purposes thereof, and provisions to reflect the full scope and breadth of the Respondent's obligation to the Acquirer pursuant to this Order.
- D. For each Divestiture Product that

1. a detailed description of all substantive contacts, negotiations, or recommendations related to (i) the divestiture and transfer of all relevant assets and rights, (ii) transitional services being provided by the Respondent to the Acquirer, and (iii) the agreement(s) to Contract Manufacture; and
 2. a detailed description of the timing for the completion of such obligations.
- C. One (1) year after the Order Date, annually for the next nine years on the anniversary of the Order Date, and at other times as the Commission may require, Respondent shall file a verified written report with the Commission setting forth in detail the manner and form

X.

IT IS FURTHER ORDERED that this Order shall terminate on November 10, 2025.

By the Commission.

Donald S. Clark
Secretary

SEAL:
ISSUED: November 10, 2015

**NON-PUBLIC APPENDIX I
AGREEMENTS RELATED TO THE DIVESTITURES**

[Redacted from the Public Record, but Incorporated by Reference]