

Docket No. C-4720

alleged in the Draft Complaint, other than jurisdictional facts, are true, (3) waivers and other provisions as required by the Commission's Rules, and (4) a proposed Decision and Order and Order to Maintain Assets.

The Commission considered the matter and determined to accept the executed Consent Agreement and to place such Consent Agreement on the public record for a period of 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 issues its Complaint, makes the following jurisdictional findings, and issues this Order to Maintain Assets:

1. Respondent Tri Star is a limited liability company organized, existing, and doing business under and by virtue of the laws of the state of Delaware, with its office and principal place of business located at 1740 Ed Temple Boulevard, Nashville, Tennessee 37208.
2. Respondent HOC is a corporation, organized, existing, and doing business under and by virtue of the laws of the state of Tennessee, with its office and principal place of business located at 1503 Memorial Boulevard, Springfield, Tennessee 37172.
3. Respondent C & H Properties is a general partnership organized, existing, and doing business under and by virtue of the laws of the state of Tennessee, with its office and principal place of business located at 1503 Memorial Boulevard, Springfield, Tennessee 37172.
4. Respondent Hollingsworth is a natural person with his office and principal place of business located at 1503 Memorial Boulevard, Springfield, Tennessee 37172.
5. The Federal Trade Commission has jurisdiction over the subject matter of this proceeding and of Respondents, and this proceeding is in the public interest.

I. Definitions

IT IS ORDERED that, as used in this Order to Maintain Assets, the following definitions, and all other definitions used in the Consent Agreement and the Decision and Order, shall apply:

- A. "Tri Star" means Tri Star Energy, LLC, its directors, officers, employees, agents, representatives, successors, and assigns; its joint ventures, subsidiaries, divisions, groups, and affiliates, in each case controlled by Tri Star, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- B. "HOC" means Hollingsworth Oil Company, Inc., its directors, officers, employees, agents, representatives, successors, and assigns; its joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates, in each case controlled by HOC, and the

respective directors, officers, employees, agents, representatives, successors, and assigns of each.

- C. “C & H” means C & H Properties, its partners, directors, officers, employees, agents, representatives, successors, and assigns; its joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates, in each case controlled by C & H, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- D. “Hollingsworth” means Ronald L. Hollingsworth, a natural person, all partnerships, joint ventures, subsidiaries, divisions, groups, and affiliates controlled by Ronald L. Hollingsworth (including HOC and C & H), and the respective partners, directors, officers, employees, agents, representatives, successors, and assigns of each.
- E. “Cox” means Cox Oil Company, Inc., its partners, directors, officers, employees, agents, representatives, successors, and assigns; its joint ventures, partnerships, subsidiaries, divisions, groups, and affiliates, in each case controlled by Cox Oil Company, Inc. and the respective partners, directors, officers, employees, agents, representatives, successors, and assigns of each.
- F. “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 in this matter.
- G. “Monitor” means any Person appointed by the Commission to serve as a Monitor pursuant to the Decision and Order and this Order to Maintain Assets.
- H. “Orders” means the Decision and Order and this Order to Maintain Assets.

II. Asset Maintenance

IT IS FURTHER ORDERED that until the Retail Fuel Assets have been fully transferred to the Acquirer, Respondents shall operate and maintain the Retail Fuel Assets and Retail Fuel Outlet Business in the ordinary course of business consistent with past practices. Included in these obligations, Respondents shall:

- A. Take all actions necessary to maintain the full economic viability, marketability, and competitiveness of the Retail Fuel Assets, to minimize the risk of loss of competitive potential of the Retail Fuel Outlet Business, to operate the Retail Fuel Outlet Business in a manner consistent with applicable laws and regulations, and to prevent the destruction,

removal, wasting, or deterioration of the Retail Fuel Assets, except for ordinary wear and tear.

- B. Not sell, transfer, encumber, or otherwise impair the Retail Fuel Assets, or terminate any of the operations of the Retail Fuel Outlet Business, other than in the ordinary course of business consistent with past practice or as prescribed in the Orders.
- C. Make all payments required to be paid under any contract or lease when due, and pay all liabilities and satisfy all obligations associated with the Retail Fuel Outlet Business.
- D. Provide the Retail Fuel Outlet Business with sufficient working capital to operate at least at current rates of operation, to meet all capital calls, to perform routine or necessary maintenance, to repair or replace facilities and equipment, and to carry on, at least at their scheduled pace, all capital projects, business plans, promotional plans, capital expenditure plans, research and development plans, and commercial activities for the Relevant Fuel Outlet Business.
- E. Use best efforts to preserve the existing relationships and goodwill with suppliers, customers, employees, vendors, distributors, landlords, licensors, licensees, government entities, brokers, contractors, and others having business relations with the Retail Fuel Outlet Business.
- F. Maintain the working conditions, staffing levels, and a work force of equivalent size, training, and expertise associated with the Retail Fuel Outlet Business, including by:
 - 1. Filling vacancies that occur in the regular and ordinary course of business consistent with past practice; and
 - 2. Not transferring any employees from the Retail Fuel Outlet Business to another of Respondents' businesses.
- G. Maintain and preserve the Business Information of the Retail Fuel Outlet Business.
- H. Provide the resources necessary for the Retail

- K. Maintain the levels of production, quality, pricing, service, or customer support typically associated with the Retail Fuel Outlet Business.

Provided, however, that Respondents may take actions that the Acquirer has requested or agreed-to in writing and that has been approved in advance by Commission staff, in all cases to facilitate the Acquirer's acquisition of the Divestiture Assets and consistent with the purposes of the Orders.

III. Employees

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employment with the Acquirer, and not otherwise interfere with the recruitment of any Retail Fuel Employee by the Acquirer.

C. Respondents shall not, for a period of one year following the Divestiture Date, directly or indirectly, solicit or otherwise attempt to induce any of the Retail Fuel Employees who have accepted offers of employment with the Acquirer to terminate his or her employment with the Acquirer; provided, however, Respondents may:

1. Hire an employee whose employment has been terminated by the Acquirer;
2. Advertise for employees in newspapers, trade publications, or other media, or engage recruiters to conduct general employee search activities, in either case not targeted specifically at one or more of Retail Fuel Employees or

3. Hire an employee who has applied for employment with Respondents, as long as

access and data controls, training of employees, and all other actions that Respondents would take to protect their own trade secrets and proprietary information.

V. Monitor

IT IS FURTHER ORDERED that:

- A. At any time after the Respondents sign the Consent Agreement in this matter, the Commission may appoint a monitor ("Monitor") to assure that the Respondents expeditiously comply with all of their obligations and perform all of their responsibilities as required by this Order, the Decision and Order, and the Divestiture Agreement.
- B. The Commission shall select the Monitor, subject to the consent of Respondents, which consent shall not be unreasonably withheld. If Respondents have not opposed, in writing, including the reasons for opposing, the selection of a proposed Monitor within 10 days after notice by the staff of the Commission to Respondents of the identity of any proposed Monitor, Respondents shall be deemed to have consented to the selection of the proposed Monitor.
- C. No later than 5 days after the Commission appoints the Monitor, Respondents shall:
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4. Shall serve at the expense of Respondents without bond or other security;
5. May employ, at the cost and expense of Respondents, such consultants, accountants, attorneys, and other representatives and assistants as are reasonably necessary to carry out the Monitor's duties and responsibilities;
6. Shall enter into a confidentiality agreement related to Commission materials and information received in connection with the performance of the Monitor's duties and each of the Monitor's consultants, accountants, attorneys, and other representatives and assistants shall enter into such a confidentiality agreement;
7. Shall notify Respondents and staff of the Commission, in writing, of any potential financial, professional, personal, or other conflicts of interest within 5 days should they arise;
8. Shall report in writing to the

- H. Respondents shall not require nor compel the Monitor to disclose to Respondents the substance of communications with the Commission, including written reports submitted pursuant to Paragraph V.D.8, or any Person with whom the Monitor communicates in the performance of his/her duties.
- I. If the Commission determines that the Monitor has ceased to act or failed to act diligently, the Commission may appoint a substitute Monitor and such substitute Monitor shall be afforded all rights, powers, and authorities and subject to all obligations of this Paragraph V:
 1. The Commission shall select such substitute Monitor, subject to the consent of the Respondents, which consent shall not be necessary if the Respondents-48 (p)-6 0 Tr shall be deemed to have consented to the selection of the proposed substitute Monitor if, upon notice

VII. Change in Respondents

IT IS FURTHER ORDERED that Respondent Tri Star shall notify the Commission at least 30 days prior to:

- A. Any proposed dissolution of Tri Star Energy, LLC;
- B. Any proposed acquisition, merger, or consolidation of Tri Star Energy, LLC;
- C. Any other change in the Respondent Tri Star, including, but not limited to, amendment and the creation or dissolution of subsidiaries, if such change might affect compliance obligations arising out of the Order.

VIII. Access

IT IS FURTHER ORDERED that, for purposes of determining or securing compliance with this Order to Maintain Assets and subject to any legally recognized privilege, and upon 5 days' written notice to the applicable Respondent made to its principal United States offices, registered office of its United States subsidiaries, or headquarters as to such Respondent shall, without restraint or interference, permit any duly authorized representative of the Commission:

- A. Access, during business hours of such Respondent and in the presence of counsel, to all facilities and assets to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other documents, including electronic data, in the possession, custody, or control of such Respondent or its subsidiaries, or headquarters as to such Respondent.

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