UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FEDERAL TRADE COMMISSION **600 Pennsylvania Avenue, N.W.** **Washington, D.C. 20580,** ***Plaintiff,*** **v.** **ALIMENTATION COUCHE-TARD INC.** **4204 Industriel Blvd.** **Laval, Quebec H7L 0E3, Canada,** **and** **CROSSAMERICA PARTNERS LP** **600 Hamilton Street, Suite 500** **Allentown, Pennsylvania 18101,** ***Defendants*.**	Civil Action No.

COMPLAINT FOR CIVIL PENALTIES PURSUANT TO SECTION 5(*l*) OF THE FEDERAL TRADE COMMISSION ACT

Plaintiff, the Federal Trade Commission ("Commission" or "FTC"), by its undersigned attorneys, alleges that:

1. Plaintiff brings this action under Sections 5(*l*) and 16(a)(1) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(*l*) and 56(a)(1), as amended, against Defendant Alimentation Couche-Tard Inc. ("Couche-Tard") and Defendant CrossAmerica Partners LP ("CAPL"), to obtain civil penalties for Defendants' violations of a Decision and Order ("Order") and an Order to Maintain Assets ("OMA") issued by the Commission.

2. Defendant Couche-Tard is a multinational operator of retail fuel (*i.e.*, gasoline and diesel) outlets with associated convenience stores doing business under the Circle K brand, among others. At all times relevant to this complaint, Defendant Couche-Tard indirectly owned

locations identified on Appendix A of the Order. Thus, pursuant to the Order, the deadline for divesting the Retail Fuel Assets was June 15, 2018.

16. Appendix A of the Order identified the following Retail Fuel Assets locations for

j. Holiday, 730 S. River Street, Spooner, Wisconsin 54801, Store # CAPL WI0077 ("Spooner").

Asset Maintenance Requirements

17. The OMA required Defendants to maintain the viability, marketability, competitiveness, and operations of each of the Retail Fuel Assets from the date Defendants

22. Paragraph IX.B. of the Order required, in part, that Defendants include information in their compliance reports about the status of the divestiture and transfer of any of the Retail Fuel Assets, and a description of all substantive contacts with a proposed acquirer.

23. Paragraph V. of the OMA required that, within 30 days after the OMA was issued and every 30 days thereafter as specified, Defendants submit to the Commission verified written reports setting forth in detail the manner and form in which they intended to comply, were complying, and had complied with all provisions of the OMA, and must include in their reports a full description of the efforts being made to comply with the OMA.

DEFENDANTS' CONDUCT

Divestitures

24. Paragraph II.A. of the Order required Defendants to divest the ten Retail Fuel Assets no later than 120 days from the date the Order was issued, *i.e.*, by June 15, 2018.

25. Defendants did not divest the ten Retail Fuel Assets by June 15, 2018.

26. Under Paragraph II.A. of the Order, any divestiture of the Retail Fuel Assets was subject to the prior approval of the Commission. Under the Commission's Rules of Practice and Procedure, all applications for approval of divestitures will be placed on the public record for public comment for 30 days before the Commission will act on the application. *See* Rule 2.41(f) of the FTC's Rules of Practice and Procedure, 16 C.F.R. § 2.41(f) ("Rule 2.41(f)").

27. Defendants ultimately filed three separate petitions for Commission approval to divest three discrete packages of the Retail Fuel Assets to different acquirers pursuant to the requirements of Rule 2.41(f).

28. On May 15, 2018, Defendants filed a petition for approval to divest the Retail Fuel Assets at the St. Paul-Oakdale, Minnetonka, and St. Peter locations in Minnesota to

Northern Tier Retail LLC, a wholly owned subsidiary of Andeavor Corporation ("Andeavor"). Pursuant to Rule 2.41(f), the petition was placed on the public record for public comments for 30 days, until June 26, 2018. FTC staff notified Defendants that the proposed divestiture of the Retail Fuel Assets at the St. Paul-Oakdale location raised concerns because Andeavor also operated a retail fuel outlet in that geographic market. Defendants removed the St. Paul-Oakdale location from the proposed divestiture, and the Commission granted its approval for Defendants to divest the Retail Fuel Assets at the Minnetonka and St. Peter locations to Andeavor on August 16, 2018. Defendants completed the divestiture of these assets to Andeavor on September 17, 2018.

29. On June 6, 2018, Defendants filed a petition for approval to divest the Retail Fuel Assets at the Aitkin, Hibbing, Mora, St. Paul-County Road, Hayward, Siren, and Spooner locations to Molo Oil Company ("Molo") and Twin City Petroleum & Property, LLC ("Twin City"). Pursuant to Rule 2.41(f), the petition was placed on the public record for public comments for 30 days, until July 18, 2018. On August 29, 2018, the Commission granted its approval to these divestitures. Defendants completed the divestiture of these assets to Molo and Twin City on September 26, 2018.

30. On July 10, 2018, Defendants filed a petition for approval to divest the Retail Fuel Assets at the St. Paul-Oakdale location to Twin City. Pursuant to Rule 2.41(f), the petition was placed on the public record for public comments for 30 days, until August 17, 2018. On August 29, 2018, the Commission granted its approval to this divestiture. Defendants completed the divestiture of this location to Twin City on September 26, 2018.

Compliance Reports

31. Defendants submitted monthly compliance reports to the Commission pursuant to the Order during the period March to May 2018 that did not provide detailed information about the status of the divestiture of the Retail Fuel Assets or Defendants' substantive contacts with any proposed acquirers of the assets. Among other things, the reports did not identify by name any proposed acquirer of the assets.

32. On June 15, 2018, FTC staff requested that Defendants file a supplemental compliance report describing chronologically and in detail their efforts to comply with their

35. On or about August 24, 2018, the lessee-dealer operator notified Defendants that it was not renewing the lease and would terminate operations at the Hibbing location as of

continuing violation for which Plaintiff may seek a civil penalty pursuant to Section 5(*l*) of the FTC Act, 15 U.S.C. § 45(*l*).

Count 6

50. Plaintiff realleges the allegations of Paragraphs 1 thr

a. Failing to divest the Hibbing location as an on-going business as required by Paragraph II.A. of the Order;

b. Failing to maintain the viability, marketability, and competitiveness of the Hibbing location, as required by Paragraph II.A. of the OMA;

c. Failing to use best efforts to preserve the existing relationship with the lessee-dealer operator at the Hibbing location, or otherwise cause the business at the Hibbing location to be conducted in the regular and ordinary course, as required by by Defendants in violation of the OMA constitute a continuing violation for which Plaintiff may seek a civil penalty pursuant to Section 5(*l*) of the FTC Act, 15 U.S.C. § 45(*l*).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests this Court, pursuant to 15 U.S.C. § 45(*l*), and pursuant to the Court's own equitable powers, to:

a. Enter judgment against Defendants and in favor of the Plaintiff for each violation alleged in this Complaint;

b. Award Plaintiff appropriate civil penalties from Defendants for each violation of the Order alleged in the Complaint;

c. Award Plaintiff its costs and attorneys' fees incurred in connection with this action; and

d. Award Plaintiff such additional relief as the Court may deem just and proper.

Dated: 7/6/20

FOR THE PLAINTIFF FEDERAL TRADE COMMISSION:

MARIBETH PETRIZZI Digitally signed by MARIBETH PETRIZZI Date: 2020.06.19 13:06:04 -04'00'

Maribeth Petrizzi (D.C. Bar # 435204)
Assistant Director
Bureau of Competition

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