

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS:
Christine S. Wilson

Joseph J. Simons, Chairman
Noah Joshua Phil750 ()-2750i ()-2750 (-2789]TJ -12)T-2750 ()-2750 ()-

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In the Matter of)
) DECISION AND ORDER
Arko Holdings Ltd. , Docket No. C-4726
a corporation,
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GPM Southeast, LLC, Etw e a c
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) m, LLC,
) liability company, and
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) eum Partners, LLC,
) liability company
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DECISION

Federal Trade Commission ("Commission") initiated an investigation of the
acquisition by

The Commission considered the matter and determined that it had reason to believe that Respondents have violated the said Acts, and that a Complaint should issue stating its charges in that respect. The Commission accepted the Consent Agreement and placed it on the public record for a period of 30 days for the receipt and consideration of public comments; at the same time, it issued and served its Complaint and Order to Maintain Assets. Now, in further conformity with the procedure described in Rule 2.34, the Commission makes the following jurisdictional findings and issues the following Decision and Order (“Order”):

1. Respondent Arko Holdings Ltd. is a corporation organized, existing, and doing business under and by virtue of the laws of Israel with its executive offices and principal place of business located at Hanechushet Street, Building B, Bloor, Tel-Aviv 6971068, Israel, with its United States office for purposes of service of process by the Commission located at 8565 Magellan Parkway, Suite 400, Richmond, Virginia 23227.
2. Respondent GPM Southeast, LLC is a limited liability company organized, existing, and doing business under and by virtue of the laws of the State of Delaware with its executive offices and principal place of business located at 8565 Magellan Parkway, Suite 400, Richmond, Virginia 23227.
3. Respondent GPM Petroleum, LLC is a limited liability company organized, existing, and doing business under and by virtue of the laws of the State of Delaware with its executive offices and principal place of business located at 8565 Magellan Parkway, Suite 400, Richmond, Virginia 23227.
4. Respondent Empire Petroleum Partners, LLC is a limited liability company organized, existing, and doing business under and by virtue of the laws of the State of Delaware with its principal place of business located at 8150 North Central Expressway, M2185, Dallas, Texas 75206.
5. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondents and the proceeding is in the public interest.

ORDER

I. Definitions

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

- A. “Arko” means Arko Holdings Ltd., its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, divisions, groups, and affiliates controlled by Arko Holdings Ltd., including GPM Southeast and GPM Petroleum, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.

- B. "GPM Southeast" means GPM Southeast, LLC, its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, divisions, groups, and affiliates controlled by GPM Southeast, LLC, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- C. "GPM Petroleum" means GPM Petroleum, LLC, its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, divisions, groups, and affiliates controlled by GPM Petroleum, LLC, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- D. "Empire" means Empire Petroleum Partners, LLC directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, divisions, groups, and affiliates controlled by Empire Petroleum Partners, LLC and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- E. "Commission" means the Federal Trade Commission.
- F. "Acquirer" means
1. Good Oil;
 2. Groves Fuel;
 3. Javed
 4. Marathon Flint;
 5. Skyway;
 6. SM Gaş or
 7. Any other Person that acquires Retail Fuel Assets pursuant to this Order.
- G. "Acquisition" means the proposed acquisition described in the agreement entitled "Purchase Agreement" and between GPM Southeast, LLC and GPM Petroleum, LLC, as Purchaser, and Empire Petroleum Partners, LLC and the Entities Listed on Schedule I hereto, as Seller, dated as of December 17, 2019."
- H. "Acquisition Date" means the date the Acquisition is consummated.
- I.

- J. "Business Information" means books, records, data, and information, wherever created and however stored, used in or related to the Retail Fuel Assets or Retail Fuel Business, including documents, written information, graphic materials, and data and information in electronic format along with the knowledge of employees, contractors, and representatives. Business Information includes books, records, information, know how, and data relating to sales, marketing, logistics, products and SKUs, pricing, promotions, advertising, personnel, accounting, business strategy, information technology systems, customers, suppliers, vendors, and all other information relating to the Retail Fuel Business or Retail Fuel Assets. For clarity, Business Information includes Respondent's right and control over information and material provided to any other Person.
- K. "Confidential Information" means all Business Information not in the public domain, except for any information that was or becomes generally available to the public other than as a result of disclosure by Respondents.
- L. "Consent" means all approvals, consents, ratifications, waivers, or other authorizations from any Person, including a landlord, that are necessary to effect the complete transfer of the Retail Fuel Assets or the Retail Fuel Business to each Acquirer.
- M. "Contracts" means all agreements, contracts, leases, license agreements, consensual obligations, promises or undertakings (whether written or oral and whether express or implied), whether or not legally binding with third parties.
- N. "Direct Cost" means the

- P. “Divestiture Date” means the date on which Respondents (or a Divestiture Trustee appointed pursuant to Paragraph X of this Order) consummate the divestiture of that Retail Fuel Business as required by Paragraph II of this Order.
- Q. “Divestiture Trustee” means the Person appointed by the Commission pursuant to Paragraph X of this Order.
- R. “Edmore Business” means all business activities conducted by Respondents prior to the Acquisition Date at the location at 218 E. Main Street, Edmore, Michigan 48829, including the (i) sale of Fuel Products and (ii) the operation of any associated convenience store and related business and service.
- S. “Employee Information” means for each Retail Fuel Employee, to the extent permitted by law, the following information summarizing the employment history of each employee that includes:
1. Name, job title or position, date of hire, and effective service date;
 2. Specific description of the employee’s responsibilities;
 3. The employee’s base salary or current wages;
 4. Most recent bonus paid, aggregate annual compensation for Respondent’s last fiscal year, and current target or guaranteed bonus, if any;
 5. Written performance reviews for the past three years, if any;
 6. Employment status (i.e., active or on leave or disability; full time or part time);
 7. Any other material terms and conditions of employment in regard to such employee that are not otherwise generally available to similarly situated employees; and
 8. At the Acquirer’s option, copies of all employee benefit plans and summary plan descriptions (if any) applicable to the employee.
- T. “Equipment” means all tangible personal property (other than Investments) of every kind owned or leased by Respondents in connection with the operation of the Retail Fuel

hoses, Stage I and Stage II vapor recovery equipment, containment devices, monitoring equipment, cathodic protection systems, and other elements associated with any of the foregoing), parts, tools, supplies, and all other items of equipment or tangible personal property of any nature or other systems used in the operation of the Retail Fuel Outlet Business, together with any express or implied warranty by the manufacturers or seller or lessors of any item or component part, to the extent such warranty is transferrable, and all maintenance records and other related documents

- U. “Fuel Products” means refined petroleum gasoline and diesel products.
- V. “Good Oil” means Good Oil Company, Inc. a corporation organized, existing, and doing business under, and by virtue of the laws of the State of Indiana, with its office and principal place of business located at 1201 N. US 35, Winamac, Indiana 46996.
- W. “Good Oil Divestiture Agreement” means the Agreement by and among Empire Petroleum Partners, LLC, Woody’s Food Stores, Inc., and Good Oil Company, Inc., dated as of May 19, 2020, and all amendments, exhibits, attachments, agreements (including agreements to provide Transitional Assistance), and schedules thereto, attached to this Order as Non-Public Appendix II.
- X. “Governmental Authorization” means any consent, license, registration, or permit issued, granted, given or otherwise made available by or under the authority of any governmental body or pursuant to any legal requirement.
- Y. “Groves Fuel” means Groves Fuel Management LLC, a limited liability company organized, existing, and doing business under, and by virtue of the laws of the State of Texas with its office and principal place of business located at 6207 Glendora Avenue, Dallas, Texas, 75230.
- Z. “Groves Fuel Divestiture Agreement” means the Purchase and Sale Agreement by and between Groves Fuel Management LLC and EPP-Texas Acquisition, LLC, dated as of May 28, 2020 and all amendments, exhibits, attachments, agreements (including agreements to provide Transitional Assistance), and schedules thereto, attached to this Order as Non-Public Appendix III.
- AA. “Hastings Business” means all business activities conducted by Respondents prior to the Acquisition Date at the location at 1335 N. Broadway, Hastings, Michigan 49058, including the (i) sale of Fuel Products and (ii) the operation of any associated convenience store and related business and service.
- BB. “Intellectual Property” means intellectual property of any kind, including but not limited to, (i) commercial names, assumed fictional business names, trade names, business as” (d/b/a names), registered and unregistered trademarks, service marks and applications, and trade dress; (ii) patents, patent applications and inventions and discoveries that may be patentable; (iii) registered and unregistered copyrights in both published works and unpublished works; (iv) rights in mask works; (v) know-how, trade

KK.

- PP. "Retail Fuel Employee" means any fulltime, part-time, or contract individual employed by Respondents, as applicable, at each Retail Fuel Business as of December 1, 2019.
- QQ. "Retained Assets" means:
1. Corporate or regional offices;
 2. Trade names and trademarks that Respondents use primarily for businesses other than the Retail Fuel Businesses to be divested;
 3. Third Party brand or trademark licenses relating to Fuel Products, unless requested by the Acquirer;
 4. Software that can readily be purchased or licensed from sources other than Respondents and that has not been materially modified (other than through user preference settings);
 5. Enterprise software that Respondents use primarily to manage and account for businesses other than the relevant business to be divested;
 6. The portion of any Business Information that contains information about any business other than the business to be divested, and from which Confidential Business Information has been redacted
 7. Inventory that an Acquirer agrees not to purchase or that cannot be transferred by law in the applicable jurisdiction;
 8. The Subway franchise operated as part of the South Bend Business; and
 9. The following equipment, unless requested by an Acquirer (and to the extent transferrable) equipment belonging to vendors leased from third parties; automated teller machines; Western Union equipment; credit card processing equipment; back office computers (including monitors, printers and scanners); proprietary equipment; APC backups; UPS or PDI handhelds; routers, power strips, Cisco switches; and TNS, Cybera, Echo Sat and Net Express devices.
- RR. "Skyway" means Skyway Fuels Inc., a corporation organized, existing, and doing business under, and by virtue of laws of the State of Indiana, with its office and principal place of business located at 1131 Redbud Drive, La Porte, Indiana 46350.
- SS. "Skyway Divestiture Agreement" means the Purchase Agreement by and between Next Door Operations, LLC and Skyway Fuels Inc., dated as of May 19, 2020, and all amendments, exhibits, attachments, agreements (including agreements to provide Transitional Assistance) and schedules thereto, attached to this Order as Non-Public Appendix VI.

- TT. "SM Gas" means SM Gas Inc., a corporation organized, existing, and doing business under, and by virtue of the laws of the State of Indiana, with its office and principal place of business located at 15482 Bryanton Court, Grand Terrace, Indiana 46530.
- UU. "SM Gas Divestiture Agreement" means the Purchase Agreement by and between Village Pantry, LLC and SM Gas Inc., dated as of May 7, 2020, and all amendments, exhibits, attachments, agreements (including agreements to provide Transitional Assistance) and schedules thereto, attached to this Order as Non-Public Appendix VII.
- VV. "South Bend Business" means all business activities conducted by Respondents prior to the Acquisition Date at the location at 26499 US Highway 20, South Bend, Indiana 46628, including the (i) sale of FUEL Products and (ii) the operation of any associated convenience store and related business and service.
- WW. "Stevensville Business" means all business activities conducted by Respondents prior to the Acquisition Date at the location at 101 Duke Street, Stevensville, Maryland 21666, including the (i) sale of FUEL Products and (ii) the operation of any associated convenience store and related business and service.

3. Respondents shall divest the Retail Fuel Assets relating to the Knox Business to Skyway in accordance with the Skyway Divestiture Agreement;
4. Respondents shall divest the Retail Fuel Assets relating to the Kokomo Business to Good Oil in accordance with the Good Oil Divestiture Agreement;
5. Respondents shall divest the Retail Fuel Assets relating to the South Bend Business to SM Gas in accordance with the SM Gas Divestiture Agreement; and
6. Respondents shall divest the Retail Fuel Assets relating to the Stevensville Business to Javed in accordance with the Javed Divestiture Agreement.

Provided, however, if that in cases in which Business Information included in the Retail Fuel Assets contain information: (a) that relates both to the Retail Fuel Assets and to other, retained businesses of a Respondent and cannot be segregated in a manner that preserves the usefulness of the information as it relates to the Retail Fuel Assets, or (b) where Respondents have a legal obligation to retain the original copies, then Respondents shall be required to provide only copies of the materials containing such information with appropriate redactions to the Acquirer. In instances where such copies are provided to the Acquirer, the Respondents shall provide to such Acquirers the original materials under circumstances where copies of materials are insufficient for regulatory or evidentiary purposes.

B. If, at the time the Commission determines to make this Order final, the Commission notifies Respondents that:

1. An Acquirer is not an acceptable purchaser of the relevant Retail Fuel Assets, then Respondents shall immediately rescind the divestiture to that Acquirer, and shall divest the relevant Retail Fuel Assets no later than 180 days from the date this Order is issued, absolutely and in good faith, at no minimum price, to one or more Persons that receive the prior approval of the Commission; or
2. The manner in which the Respondents divested the relevant Retail Fuel Assets to an Acquirer is not acceptable, the Commission may direct Respondents, or appoint a Divestiture Trust (a) to (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x) (y) (z) (aa) (ab) (ac) (ad) (ae) (af) (ag) (ah) (ai) (aj) (ak) (al) (am) (an) (ao) (ap) (aq) (ar) (as) (at) (au) (av) (aw) (ax) (ay) (az) (ba) (bb) (bc) (bd) (be) (bf) (bg) (bh) (bi) (bj) (bk) (bl) (bm) (bn) (bo) (bp) (bq) (br) (bs) (bt) (bu) (bv) (bw) (bx) (by) (bz) (ca) (cb) (cc) (cd) (ce) (cf) (cg) (ch) (ci) (cj) (ck) (cl) (cm) (cn) (co) (cp) (cq) (cr) (cs) (ct) (cu) (cv) (cw) (cx) (cy) (cz) (da) (db) (dc) (dd) (de) (df) (dg) (dh) (di) (dj) (dk) (dl) (dm) (dn) (do) (dp) (dq) (dr) (ds) (dt) (du) (dv) (dw) (dx) (dy) (dz) (ea) (eb) (ec) (ed) (ee) (ef) (eg) (eh) (ei) (ej) (ek) (el) (em) (en) (eo) (ep) (eq) (er) (es) (et) (eu) (ev) (ew) (ex) (ey) (ez) (fa) (fb) (fc) (fd) (fe) (ff) (fg) (fh) (fi) (fj) (fk) (fl) (fm) (fn) (fo) (fp) (fq) (fr) (fs) (ft) (fu) (fv) (fw) (fx) (fy) (fz) (ga) (gb) (gc) (gd) (ge) (gf) (gg) (gh) (gi) (gj) (gk) (gl) (gm) (gn) (go) (gp) (gq) (gr) (gs) (gt) (gu) (gv) (gw) (gx) (gy) (gz) (ha) (hb) (hc) (hd) (he) (hf) (hg) (hh) (hi) (hj) (hk) (hl) (hm) (hn) (ho) (hp) (hq) (hr) (hs) (ht) (hu) (hv) (hw) (hx) (hy) (hz) (ia) (ib) (ic) (id) (ie) (if) (ig) (ih) (ii) (ij) (ik) (il) (im) (in) (io) (ip) (iq) (ir) (is) (it) (iu) (iv) (iw) (ix) (iy) (iz) (ja) (jb) (jc) (jd) (je) (jf) (jg) (jh) (ji) (jj) (jk) (jl) (jm) (jn) (jo) (jp) (jq) (jr) (js) (jt) (ju) (jv) (jw) (jx) (jy) (jz) (ka) (kb) (kc) (kd) (ke) (kf) (kg) (kh) (ki) (kj) (kk) (kl) (km) (kn) (ko) (kp) (kq) (kr) (ks) (kt) (ku) (kv) (kw) (kx) (ky) (kz) (la) (lb) (lc) (ld) (le) (lf) (lg) (lh) (li) (lj) (lk) (ll) (lm) (ln) (lo) (lp) (lq) (lr) (ls) (lt) (lu) (lv) (lw) (lx) (ly) (lz) (ma) (mb) (mc) (md) (me) (mf) (mg) (mh) (mi) (mj) (mk) (ml) (mm) (mn) (mo) (mp) (mq) (mr) (ms) (mt) (mu) (mv) (mw) (mx) (my) (mz) (na) (nb) (nc) (nd) (ne) (nf) (ng) (nh) (ni) (nj) (nk) (nl) (nm) (nn) (no) (np) (nq) (nr) (ns) (nt) (nu) (nv) (nw) (nx) (ny) (nz) (oa) (ob) (oc) (od) (oe) (of) (og) (oh) (oi) (oj) (ok) (ol) (om) (on) (oo) (op) (oq) (or) (os) (ot) (ou) (ov) (ow) (ox) (oy) (oz) (pa) (pb) (pc) (pd) (pe) (pf) (pg) (ph) (pi) (pj) (pk) (pl) (pm) (pn) (po) (pp) (pq) (pr) (ps) (pt) (pu) (pv) (pw) (px) (py) (pz) (qa) (qb) (qc) (qd) (qe) (qf) (qg) (qh) (qi) (qj) (qk) (ql) (qm) (qn) (qo) (qp) (qq) (qr) (qs) (qt) (qu) (qv) (qw) (qx) (qy) (qz) (ra) (rb) (rc) (rd) (re) (rf) (rg) (rh) (ri) (rj) (rk) (rl) (rm) (rn) (ro) (rp) (rq) (rr) (rs) (rt) (ru) (rv) (rw) (rx) (ry) (rz) (sa) (sb) (sc) (sd) (se) (sf) (sg) (sh) (si) (sj) (sk) (sl) (sm) (sn) (so) (sp) (sq) (sr) (ss) (st) (su) (sv) (sw) (sx) (sy) (sz) (ta) (tb) (tc) (td) (te) (tf) (tg) (th) (ti) (tj) (tk) (tl) (tm) (tn) (to) (tp) (tq) (tr) (ts) (tt) (tu) (tv) (tw) (tx) (ty) (tz) (ua) (ub) (uc) (ud) (ue) (uf) (ug) (uh) (ui) (uj) (uk) (ul) (um) (un) (uo) (up) (uq) (ur) (us) (ut) (uu) (uv) (uw) (ux) (uy) (uz) (va) (vb) (vc) (vd) (ve) (vf) (vg) (vh) (vi) (vj) (vk) (vl) (vm) (vn) (vo) (vp) (vq) (vr) (vs) (vt) (vu) (vv) (vw) (vx) (vy) (vz) (wa) (wb) (wc) (wd) (we) (wf) (wg) (wh) (wi) (wj) (wk) (wl) (wm) (wn) (wo) (wp) (wq) (wr) (ws) (wt) (wu) (wv) (ww) (wx) (wy) (wz) (xa) (xb) (xc) (xd) (xe) (xf) (xg) (xh) (xi) (xj) (xk) (xl) (xm) (xn) (xo) (xp) (xq) (xr) (xs) (xt) (xu) (xv) (xw) (xx) (xy) (xz) (ya) (yb) (yc) (yd) (ye) (yf) (yg) (yh) (yi) (yj) (yk) (yl) (ym) (yn) (yo) (yp) (yq) (yr) (ys) (yt) (yu) (yv) (yw) (yx) (yy) (yz) (za) (zb) (zc) (zd) (ze) (zf) (zg) (zh) (zi) (zj) (zk) (zl) (zm) (zn) (zo) (zp) (zq) (zr) (zs) (zt) (zu) (zv) (zw) (zx) (zy) (zz)

IT IS FURTHER ORDERED that:

- A. Until Respondents have transferred all Business Information included in the Retail Fuel Assets to the relevant Acquirer, Respondents shall ensure that the Business Information is maintained and updated in the ordinary course of business and shall provide the relevant Acquirer with access to that Business Information (wherever located and however stored) and to employees who possess the Business Information.
- B. At the option of an Acquirer, Respondents shall provide the Acquirer Transitional Services sufficient to (i) efficiently transfer the Retail Fuel Business to the Acquirer and (ii) allow the Acquirer to operate the acquired Retail Fuel Business and related Retail Fuel Assets in a manner that is equivalent in all material respects to the manner in which Respondents operated the Retail Fuel Assets and Retail Fuel Business prior to the Acquisition.
- C. Respondents shall provide Transitional Services
 - 1. As set forth in a Divestiture Agreement, or as otherwise reasonably requested by the Acquirer (whether before or after the Divestiture Date)
 - 2. At the price set forth in the Divestiture Agreement, or if no price is set forth, at Direct Cost; and
 - 3. For a period sufficient to meet the requirements of this Paragraph, which shall be, at the option of each Acquirer, for up to 15 months after the Divestiture Date; *provided, however*, that within 15 days after a request by an Acquirer, Respondents shall file with the Commission a request for prior approval to extend the term for providing Transitional Services as the Acquirer requests in order to achieve the purposes of this Order.
- D. Respondents shall allow each Acquirer to terminate, in whole or part, any Transitional Services at any time upon commercially reasonable notice and without cost or penalty.
- E. Respondents shall not cease providing Transitional Services due to a breach by the Acquirer of a Divestiture Agreement, and shall not limit any damages (including indirect, special, and consequential damages) that the Acquirer would be entitled to receive in the event of Respondent's breach of any agreement relating to Transitional Services.

V. Asset Maintenance

IT IS FURTHER ORDERED

employment or other contracts with Respondents [9-1, 8.9] that may affect the ability or incentive of those individuals to be employed by the Acquirer shall not make any counterfactual Retail Fuel Employee who receives an offer of employment from the Acquirer; provide that nothing in this Order shall be construed to require Respondents to terminate the employment of any employee or prevent Respondents from continuing the employment of an employee;

4. Continue to provide Retail Fuel Employees

VII. Confidential Information

IT IS HEREBY ORDERED that:

A. Respondents shall provide Confidential Information in the course of

1. Refraining from investigations

F. Respondents shall indemnify

Fuel Assets and perform Respondents' other obligations in a manner that satisfies the requirements of this Order;

2. The Divestiture Trustee shall have 12 months from the date the Commission approves the trust agreement described herein to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the 12-month period, the Divestiture Trustee has submitted a plan of divestiture or believes that the divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or in the case of a court-appointed Divestiture Trustee, by the court;
3. Subject to any demonstrated legally recognized privilege, the Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities related to the relevant assets that are required to be assigned, granted, licensed, divested, delivered, or otherwise conveyed by this Order and to any other relevant information, as the Divestiture Trustee may request. Respondents shall develop such financial or other information as the Divestiture Trustee may request and shall cooperate with the Divestiture Trustee. Respondents shall take no action to interfere with or impede the Divestiture Trustee's accomplishment of the divestiture. Any delays in divestiture caused by Respondents shall extend the time for divestiture under this Paragraph X in an amount equal to the delay, as determined by the Commission or, for a court-appointed Divestiture Trustee, by the court;
4. The Divestiture Trustee shall use commercially reasonable best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Respondents' absolute and unconditional obligation to divest expeditiously and at no minimum price. The divestiture shall be made in the manner and to an Acquirer as required by this Order; *provided, however, if the Divestiture Trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the Divestiture Trustee shall divest to the acquiring entity selected by Respondents from among those approved by the Commission; provided further, however, that Respondents shall select such entity within 5 days of receiving notification of the Commission's approval;*
5. The Divestiture Trustee shall serve, without bond or other security, at the cost and expense of Respondents, on such reasonable and customary terms and conditions as the Commission or a court may set. The Divestiture Trustee shall have the authority to employ, at the cost and expense of Respondents, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the Divestiture Trustee's duties and responsibilities. The Divestiture Trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed Divestiture Trustee, by the court, of the account of the Divestiture Trustee, including fees for the Divestiture

IT IS FURTHER ORDERED that:

- A. For a period of ten years from the date this Order is issued, Respondents Arko, GPM Southeast, and GPM Petroleum shall not, without providing advance written notification to the Commission ("Notification"):
1. Acquire, directly or indirectly, through subsidiaries or otherwise, any leasehold, ownership interest, or any other interest, in whole or in part, in any concern, corporate or non-corporate, or in any assets engaged in the sale of gasoline or diesel Fuel Products at Prior Notice Location or
 2. Enter into any contract with any concern, corporate or non-corporate, engaged in the sale of gasoline or diesel Fuel Products at a Prior Notice Location in which Respondents will control the retail price of such products.
- B. With respect to the Notification:
1. The Notification required by this Paragraph X shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended and shall be prepared and transmitted in accordance with the requirements of that part, except that no filing fee will be required for any such Notification, Notification shall be filed with the Secretary of the Commission, Notification need not be made to the United States Department of Justice, and Notification is required only of the Respondents Arko, GPM Southeast, and GPM Petroleum and not of any other party to the transaction.
 2. Include a description of the proposed acquisition and provide:
 - (a) A map showing all retail fuel outlets by ownership (OPIS Corporate Brand) within five driving miles of the relevant Prior Notice Location;
 - (b) For each retail fuel outlet owned by Respondent Arko, GPM Southeast, or GPM Petroleum that is located within five driving miles of the relevant Prior Notice Location, a list of the retail fuel outlets that Respondent Arko, GPM Southeast, or GPM Petroleum monitored at any time within the preceding 12 month period (to the extent such information is available); and
 - (c) Respondents Arko, GPM Southeast, and GPM Petroleum's pricing strategy in relation to each monitored retail fuel outlet identified in response to Paragraph X. (b) of this Order.
 3. Provide the Notification to the Commission at least 30

material (within the meaning of 16 C.F.R. § 803.20), Respondents Arko, GPM Southeast, and GPM Petroleum shall not consummate the transaction until thirty (30) days after submitting such additional information or documents.

4. Early termination of the waiting periods in this Paragraph X may be requested and, where appropriate, granted by letter from the Bureau of Competition. *Provided, however,* that prior notification shall not be required by this Paragraph for a transaction for which notification is required to be made, and has been made, pursuant to Section 7A of the Clayton Act, 15 U.S.C. § 18a.

XI. Compliance Reports

IT IS FURTHER ORDERED that:

A. Respondents shall:

1. Notify Commission staff via email at bccompliance@ftc.gov of the Acquisition Date no later than 5 days after the Acquisition Date and
2. Submit each complete Divestiture Agreement to the Commission at ElectronicFilings@ftc.gov and bccompliance@ftc.gov no later than 30 days after each Divestiture Date

B. Each Respondent shall submit verified written reports (“compliance reports”) in accordance with the following:

1. Respondents shall submit i 9 - 2 . 1

under the Order and provide copies of these documents to Commission staff upon request.

4. Respondents shall verify each compliance report in the manner set forth in 28 U.S.C. § 1746 by the Chief Executive Officer or another officer or employee specifically authorized to perform this function. Respondents shall submit an original and 2 copies of each compliance report as required by Commission Rule 2.41(a), 16 C.F.R. § 2.41(a), including a paper original submitted to the Secretary of the Commission and electronic copies to the Secretary at ElectronicFilings@ftc.gov and to the Compliance Division at bccompliance@ftc.gov. In addition, Respondents shall provide a copy of each compliance report to the Monitor if the Commission has appointed one in this matter.

Provided, however, that Respondent Empire's reporting obligations under this Paragraph XI shall cease once it has completed its obligations under Paragraphs II and IV of this Order.

XII. Change in Respondents

IT IS FURTHER ORDERED that Respondents ArkGPM Southeast, and GPM Petroleum shall each notify the Commission at least 30 days prior to:

- A. Its proposed dissolution (i.e. the dissolution of Ark Holdings Ltd., GPM Southeast, LLC, or GPM Petroleum, LLC);
- B. Its proposed acquisition of Ark Holdings Ltd., GPM Southeast, LLC, or GPM Petroleum, LLC.

- B. To interview officers, directors, or employees of Respondents, who may have counsel present, regarding such matters.

XIV. Purpose

IT IS FURTHER ORDERED that the purpose of this Order is to ensure the continued use of the related Retail Fuel Assets in the ~~Retail Fuel Business~~ Retail Fuel Business in which such assets were engaged at the time of the announcement of the Acquisition by Respondents and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's Complaint.

XV. Term

IT IS FURTHER ORDERED that this Order shall terminate October 5, 2030.

By the Commission, Commissioners Slaughter and Wilson not participating.

April J. Tabor
Acting Secretary

SEAL:
ISSUED: October 5, 2020

Appendix I

Prior Notice Locations

State	Area	Prior Notice Location
Indiana	Knox	Any location within 3 miles driving distance (using the shortest route) of a Cultural Artifact (t)-1 (i)-6 (c)-cul scn -0.003 Tc 02 0 0 12-6 (c)Tw 01

Appendix II

Good Oil Divestiture Agreement

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

Appendix III

Groves Fuel Divestiture Agreement

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

Appendix IV

Javed Divestiture Agreement

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

Appendix V

Marathon Flint Divestiture Agreement

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

Appendix VI

Skyway Divestiture Agreement

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

Appendix VII

SM Gas