

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CEMEX, S.A.B. de C.V. and
RINKER GROUP LIMITED,

Defendants.

CASE NO.: 1:07-cv-00640

JUDGE: Hon. Royce C. Lamberth

DECK TYPE: Antitrust

DATE STAMPED:

**MOTION FOR ENTRY OF
AMENDED HOLD SEPARATE STIPULATION AND ORDER**

Plaintiff, the United States of America, by its attorneys, respectfully moves the Court to enter an Amended Hold Separate Stipulation and Order, which incorporates the terms of an appended proposed Final Judgment.

FACTS

On October 27, 2006, Cemex, S.A.B. de C.V. ("Cemex") through Cemex Australia Pty Ltd., an entity controlled by Cemex, initiated a hostile cash tender offer to acquire all of the outstanding shares of Rinker Group Limited ("Rinker") for \$13.00 a share. On April 4, 2007, the United States filed with the Court a Complaint to prevent Cemex's acquisition of Rinker by hostile cash tender offer. Because the transaction involved a hostile cash tender offer and Rinker had not agreed to be acquired, Rinker was not named as a defendant in the Complaint. At the same time the Complaint was filed, the United States filed a Hold Separate Stipulation and Order, which incorporated the terms of a proposed Final Judgment that was appended to the Hold Separate Stipulation and Order. The terms of the proposed Final Judgment, in Paragraph VIII(B), provided that should Cemex and Rinker subsequently reach an agreement relating to

Cemex's acquisition of any interest in Rinker, Cemex must require Rinker to sign and become a party to an amended Hold Separate Stipulation and Order containing the same provisions as those contained in the Hold Separate Stipulation and Order signed by the United States and Cemex on April 4, 2007. The Court signed the Hold Separate Stipulation and Order on April 10, 2007, and entered it on April 11, 2007.

On April 9, 2007, Cemex announced that it had entered into a Bid Agreement with Rinker, pursuant to which Cemex agreed to increase its offer price to \$15.85 a share. As part of the Bid Agreement, the Rinker Board of Directors unanimously agreed to recommend to its shareholders that they accept Cemex's increased offer, in the absence of a superior proposal. As a result of Cemex and Rinker entering into the Bid Agreement, the United States has amended its Complaint to include Rinker as a defendant, and Rinker has signed and become a party to an Amended Hold Separate Stipulation and Order. The Amended Hold Separate Stipulation and Order, to which is attached as an exhibit a proposed Final Judgment, is attached hereto.

DISCUSSION OF LEGAL AND FACTUAL ISSUES

The United States requests that the Amended Hold Separate Stipulation and Order be entered because Rinker is now a party to this matter and an Amended Hold Separate Stipulation and Order is necessary to insure that both Cemex and Rinker take appropriate action to preserve the Divestiture Assets defined in the Amended Hold Separate Stipulation and Order. The Hold Separate Stipulation and Order that was entered by the Court on April 11, 2007, required that only Cemex take action to preserve the Divestiture Assets because Rinker was not a party to this matter when the United States filed its initial pleadings on April 4, 2007. Pursuant to Local Rule 7(m), counsel for the United States has discussed this Motion with counsel for Cemex and

Rinker, and they have executed and agreed to entry of the Amended Hold Separate Stipulation and Order.

WHEREFORE, the United States respectfully requests that the Court enter the Amended Hold Separate Stipulation and Order, attached to which is a modified proposed Final Judgment.

Dated: May 2, 2007

FOR PLAINTIFF UNITED STATES:

A handwritten signature in black ink, appearing to read "F. H. Parmenter", is written over a horizontal line.

Frederick H. Parmenter
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