UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff, v. INBEV N.V./S.A., INBEV USA LLC, and ANHEUSER-BUSCH COMPANIES, INC., Defendants.	CASE NO: 1:08-cv-01965 (JR) JUDGE: Robertson, James

PLAINTIFF UNITED STATES' MOTION FOR ENTRY OF FINAL JUDGMENT AND MEMORANDUM IN SUPPORT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h) ("APPA" or "Tunney Act"), plaintiff United States moves for entry of the proposed Final Judgment filed in this civil antitrust case. The proposed Final Judgment (which is attached) may be entered at this time without further hearing if the Court determines that entry is in the public interest. The defendants do not object to entry of the proposed Final Judgment without a hearing. The Competitive Impact Statement ("CIS") and Response to Public Comments, filed by plaintiff United States in the above-captioned matter, respectively, on November 14, 2008 and February 26, 2009, explain why entry of the proposed Final Judgment is in the public interest. Plaintiff United States is filing simultaneously with this motion a Certificate of Compliance setting forth the steps taken by the parties to comply with all applicable provisions of the APPA and certifying that the statutory waiting periods have expired.

MEMORANDUM

I. Background

On November 14, 2008, the United States filed a civil antitrust Complaint seeking to enjoin the proposed acquisition of Anheuser-Busch Companies, Inc. ("Anheuser-Busch") by InBev N.V./S.A. ("InBev"). As explained more fully in the Complaint and CIS the likely effect of the merger would be to lessen competition substantially in the market for beer in the metropolitan areas of Buffalo, Rochester, and Syracuse, New York, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18. In each of these metropolitan areas, the transaction would combine two of the three major manufacturers of beer, creating a highly concentrated market. The transaction would also eliminate substantial head-to-head competition between InBev and Anheuser-Busch in these regions. This loss of competition likely would result in higher beer prices to consumers in those areas.

At the same time that the Complaint was filed, the United States also filed a Hold Separate Stipulation and Order ("Stipulation") and a proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the merger. Under the proposed Final Judgment, defendants are required to divest InBev USA d/b/a Labatt USA ("IUSA"), a Delaware limited liability company and wholly-owned subsidiary of InBev with its headquarters in Buffalo, New York, and a perpetual, assignable, transferable, and fully-paid-up license and the other rights needed to brew, promote, market, distribute, and sell Labatt brand beer for consumption in the United States (hereafter the "Divestiture Assets"). Under the terms of the Stipulation, defendants will take certain steps to ensure that the Divestiture Assets are operated as an ongoing, economically viable, and independent competitive business in the brewing, promotion, marketing, distribution, and sale of Labatt brand beer for consumption in the United States.

The United States and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof. Defendants have also stipulated that they will comply with the terms of the Stipulation and the proposed Final Judgment from the date of signing of the Stipulation, pending entry of the proposed Final Judgment by the Court and the required divestitures. Should the Court decline to enter the proposed Final Judgment, defendants have also committed to continue to abide by its requirements and those of the Stipulation until the expiration of time for appeal.

II. Compliance with the APPA

The APPA requires a sixty-day period for the submission of public comments on a proposed Final Judgment. See 15 U.S.C. § 16(b). In compliance with the APPA, plaintiff United States filed the CIS in this Court on November 14, 2008; published the proposed Final Judgment and CIS in the *Federal Register* on November 25, 2008, *see* 73 Fed. Reg. 71682 (2008); and published a summary of the terms of the proposed Final Judgment in the *Washington Post* for seven days beginning on December 7, 2008 and continuing on consecutive days through December 13, 2008. The 60-day period for public comments ended on February 11, 2009, and four comments was received. Plaintiff United States filed its Response to Public Comments and the comments themselves with this Court on February 26, 2009, and published the Response and the public comments in the *Federal Register* on March 10, 2009, see 74 Fed. Reg. 10279 (2009). The Certificate of Compliance filed simultaneously with this Motion recites that all the requirements of the APPA have now been satisfied. It is therefore appropriate for the Court to make the public interest determination required by 15 U.S.C. § 16(e) and to enter the Final

Judgment.

III. Standard of Judicial Review

Before entering the proposed Final Judgment, the Court must determine whether the Judgment "is in the public interest." *See* 15 U.S.C. § 16(e)(1). In making that determination, the Court shall consider:

> (A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e)(1).

In its CIS filed on November 14, 2008 and its Response to Public Comments filed on February 26, 2009, plaintiff United States explained the meaning and proper application of the public interest standard under the APPA and now incorporates those statements herein by reference. The public, including affected competitors and customers, has had the opportunity to comment on the proposed Final Judgment as required by law. In its response to that comment, plaintiff United States explained why the arguments raised therein should not concern this Court in its public interest inquiry. The proposed Final Judgment is within the range of settlements consistent with the public interest.

IV. Conclusion

For the reasons set forth in this Memorandum, the CIS, and the Response to Public Comments, the Court should find that the proposed Final Judgment is in the public interest and

should enter the proposed Final Judgment without further hearings. Plaintiff United States respectfully requests that the proposed Final Judgment be entered as soon as possible.

Dated: March 11, 2009

Respectfully Submitted,

/s/Mitchell H. Glende
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THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff, v. INBEV N.V./S.A., INBEV USA LLC, and ANHEUSER-BUSCH COMPANIES, INC., Defendants.	CASE NO: 08-cv-1965 (JR) JUDGE: Robertson, James

FINAL JUDGMENT

WHEREAS, Plaintiff, United States of America, filed its Complaint on November 14, 2008, and the United States of America and defendants InBev N.V./S.A., InBev USA LLC d/b/a Labatt USA, and Anheuser-Busch Companies, Inc. (collectively, "Defendants"), by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

AND WHEREAS, Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by the Defendants to assure that competition is not substantially lessened;

AND WHEREAS, the United States requires Defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, Defendants have represented to the United States that the divestitures required herein can and will be made and that Defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED, AND DECREED:

I. Jurisdiction

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

II. Definitions

As used in this Final Judgment:

A. "Acquirer" means the entity or entities to whom Defendants divest the Divestiture Assets.

B. "Advertising" means all existing advertising and promotional materials owned or Licensed by LBCL, including without limitation all copyrights therein, bearing the Licensed Marks for use in the marketing, sale, and distribution of Labatt Brand Beer in the United States.

C. "Anheuser-Busch" means defendant Anheuser-Busch Companies, Inc., a Delaware corporation, with its headquarters in St. Louis, Missouri, its successors and assigns,

and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

D. "Beer" means any fermented alcoholic beverage that (1) is composed in part of water, a type of starch, yeast, and a flavoring and (2) has undergone the process of brewing.

E. "Defendants" means InBev N.V./S.A., InBev USA LLC d/b/a Labatt USA, and Anheuser-Busch Companies, Inc.

F. "Divestiture Assets" means:

(i) an exclusive, perpetual, assignable, transferable, and fully-paid-up license that grants the Acquirer the right:

(A) to brew Labatt Brand Beer in Canada and/or the United States for sale for consumption in the United States;

(B) to promote, market, distribute, and sell Labatt Brand Beer for sale for consumption in the United States; and

(C) to use all intellectual property rights associated with the brewing, marketing, sale, and distribution of Labatt Brand Beer for sale for consumption in the United States, including, without limitation, the Trade Dress, the Advertising, the Licensed Marks, the Recipes, and such molds and designs as are used in the manufacturing process of bottles for the Labatt Brand Beer;

(ii) all production know-how for Labatt Brand Beer, including, without limitation, all Recipes and packaging, marketing, and distribution know-how and documentation; and

(iii) all of the tangible and intangible assets of IUSA, including, without limitation, (A) all real property (owned or leased), office equipment, office furniture, fixtures, materials, supplies, and other tangible property of IUSA; (B) all contracts and agreements of IUSA except the Existing Import Agreement, including, without limitation, wholesaler and distributor agreements into which InBev or IUSA have entered for the sale or distribution of Labatt Brand Beer within the United States, sponsorship agreements with sports teams and other entities, agreements relating to the placement of advertising, agreements with public relations firms, and agreements with co-packers; (C) all existing inventories of Labatt Brand Beer owned by IUSA; (D) all customer lists, customer accounts, and credit records; (E) all licenses, permits, and authorizations issued by any governmental organization relating to the marketing, sales, and distribution of Labatt Brand Beer in the United States, including, without limitation, brand registrations; and (F) copies of all business, financial and operational books, records and data, both current and historical, that relate to Labatt Brand Beer sold and distributed in the United States; provided, however, that, for books, records, or data that relate to Labatt Brand Beer, but not solely to Labatt Brand Beer sold in the United States, LBCL shall provide only the excerpts of those books, records, or data that relate to the Labatt Brand Beer sold and distributed in the United States;

(iv) provided, however, that the Acquirer shall have no right to use, and shall not use, the term "InBev" or any derivative of the term "InBev," and provided, further, that the Acquirer shall have no rights to market or sell any brands of Beer owned by InBev other than Labatt Brand Beer.

G. "Existing Import Agreement" means the Exclusive Distributor Agreement dated as of December 1, 1994, among LBCL, Labatt Importers Inc., Labatt's USA Inc., and John Labatt Limited.

H. "InBev" means defendant InBev N.V./S.A., a public company organized under the laws of Belgium, with its headquarters in Leuven, Belgium, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, and their respective directors, officers, managers, agents, and employees.

I. "IUSA" means defendant InBev USA LLC d/b/a Labatt USA, a Delaware limited liability company and wholly-owned, indirect subsidiary of InBev, with its headquarters in Buffalo, New York.

J. "Labatt Brand Beer" means the following brands of Beer: Labatt Blue, Labatt Blue Light, Labatt's 50, Labatt ICE, Labatt Double Blue, Labatt Nordic, Labatt Select, Labatt Non-Alcoholic, Labatt Holiday, and Max ICE, and any extensions of any one or more of such brands for use in connection with brewing, distributing, promoting, marketing, or selling Beer as may be developed from time to time by the Acquirer.

K. "LBCL" means Labatt Brewing Company Limited, a Canadian corporation and wholly-owned, indirect subsidiary of Companhia de Bebidas das Américas – AmBev, a Brazilian corporation and majority-owned subsidiary of InBev.

L. "Licensed Marks" means all trademarks, service marks, or trade names for the Labatt Brand Beer belonging or licensed to LBCL and/or its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures (whether registered or unregistered, or whether the

subject of a pending application) used to brew, distribute, market, and sell Labatt Brand Beer in the United States.

M. "Recipes" means all LBCL's formulae, recipes, processes, and specifications specified by LBCL for use in connection with the production and packaging of Labatt Brand Beer in the United States, including, without limitation, LBCL's yeast, brewing processes, equipment and material specifications, trade and manufacturing secrets, know-how, and scientific and technical information for the Labatt Brand Beer.

N. "Supply Agreement" means an agreement pursuant to which InBev shall supply to the Acquirer Labatt Brand Beer in quantities and units and at prices agreed to between InBev and the Acquirer subject to the approval of the United States in its sole discretion.

O. "Trade Dress" means the print, style, color, labels, and other elements of trade dress currently used by LBCL and/or its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures in connection with the marketing, sale, and distribution of Labatt Brand Beer in the United States.

III. Applicability

A. This Final Judgment applies to the Defendants, as defined above, and all other persons in active concert or participation with the Defendants who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Sections IV and V of this Final Judgment, Defendants sell, license, or otherwise dispose of all or substantially all of their assets or lesser business units that include the Divestiture Assets, Defendants shall require the purchaser to be bound by the

provisions of this Final Judgment. Defendants need not obtain such an agreement from the Acquirer of the assets divested pursuant to this Final Judgment.

IV. Divestiture

A. Defendants are ordered and directed, within ninety (90) calendar days after the filing of the Complaint in this matter, or five (5) calendar days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer approved by the United States in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time-period, such extensions not to exceed ninety (90) calendar days in total, and shall notify the Court in such circumstances. Defendants agree to use their best efforts to divest the Divestiture Assets as expeditiously as possible.

B. In accomplishing the divestiture ordered by this Final Judgment, Defendants promptly shall make known, by usual and customary means, the availability of the Divestiture Assets. Defendants shall inform any person making inquiry regarding a possible purchase of the Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client privilege or work-product doctrine. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

C. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Divestiture Assets.

D. Defendants shall warrant to the Acquirer that each asset will be operational on the date of sale.

E. Defendants shall not manufacture, market, distribute, introduce, or sell in the United States any Beer under any brand name or trade name that contains the word "Labatt" after the date of the execution of the divestiture agreement with the Acquirer, except (i) pursuant to the terms of the Supply Agreement, and (ii) as necessary to satisfy a legal requirement to identify the brewer for and origin of other brands of beer brewed by LBCL and sold in the United States where the corporate identity of the brewer includes the word "Labatt"; provided, however, that Defendants shall not be in violation of this consent decree if an independent party ships Labatt Brand Beer from Canada to the United States without Defendants' permission or knowledge.

F. Defendants shall provide the Acquirer and the United States information relating to IUSA's personnel involved in the management, operations, or sales activities in the United States relating to the Divestiture Assets to enable the Acquirer to make offers of employment. Defendants will not interfere with any efforts by the Acquirer to employ any personnel employed by IUSA having management, operations, or sales responsibilities relating to the Divestiture Assets.

G. Unless the United States otherwise consents in writing, Defendants shall permit prospective Acquirers of the Divestiture Assets to have reasonable access to personnel and to make reasonable inspections of the physical facilities; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial,

operational, or other documents and information customarily provided as part of a due diligence process.

H. Notwithstanding anything to the contrary in this Final Judgment, at the option of the Acquirer, Defendants shall enter into a transition services agreement for a limited period with respect to information technology support, information technology licensing, computer operations, data processing, logistics support, and such other services as are reasonably necessary to operate the Divestiture Assets, with the scope, terms, and conditions of such agreement being subject to the approval of the United States in its sole discretion. Such an agreement may not exceed twelve (12) months from the date of divestiture.

I. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV, or by trustee appointed pursuant to Section V, of this Final Judgment, shall include the entire Divestiture Assets and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by the Acquirer as part of a viable, ongoing business engaged in the sale of Beer; provided that it is demonstrated to the sole satisfaction of the United States that the Divestiture Assets will remain viable and the divestiture of such assets will remedy the competitive harm alleged in the Complaint. The divestiture, whether pursuant to Section IV or Section V of this Final Judgment,

(1) shall be made to an Acquirer that, in the United States's sole judgment, has the intent and capability (including the necessary managerial, operational, technical, and financial capability) of competing effectively in the sale of Beer; and

(2) shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between the Acquirer and Defendants

give Defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

J. As part of a divestiture, and at the option of the Acquirer, Defendants shall negotiate and consummate a Supply Agreement to supply Labatt Brand Beer in quantities and units and at prices agreed to between InBev and the Acquirer with the approval of the United States. The Supply Agreement shall be no more than three (3) years in length. The terms and conditions of any such Supply Agreement shall be subject to the approval of the United States in its sole discretion. During the term of the Supply Agreement, Defendants shall establish, implement, and maintain procedures and take such other steps that are reasonably necessary to prevent the disclosure of the quantities and units of Labatt Brand Beer ordered or purchased from the Defendants by the Acquirer, the prices paid by the Acquirer, and any other competitively sensitive information regarding the Defendants' or the Acquirer's performance under the Supply Agreement, to any employee of the Defendants that has direct responsibilities for marketing, distributing, or selling Beer in competition with the Acquirer in the United States.

V. Appointment of Trustee

A. If Defendants have not divested the Divestiture Assets within the time period specified in Section IV(A), Defendants shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a trustee selected by the United States and approved by the Court to effect the divestiture of the Divestiture Assets.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Divestiture Assets. The trustee shall have the power and authority to

accomplish the divestiture to an Acquirer acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section V(D) of this Final Judgment, the trustee may hire at the cost and expense of Defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the trustee, reasonably necessary in the trustee's judgment to assist in the divestiture.

C. Defendants shall not object to a sale by the trustee on any ground other than the trustee's malfeasance. Any such objection by Defendants must be conveyed in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VI.

D. The trustee shall serve at the cost and expense of Defendants, on such terms and conditions as the United States approves, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Defendants and the trust shall then be terminated. The compensation of the trustee and any professionals and agents retained by the trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount.

E. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestiture. The trustee and any consultants, accountants, attorneys, and other persons

retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and Defendants shall develop financial and other information relevant to such business as the trustee may reasonably request, subject to reasonable protection for trade secrets or other confidential research, development, or commercial information. Defendants shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture.

F. After its appointment, the trustee shall file monthly reports with the United States and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

G. If the trustee has not accomplished the divestiture ordered under this Final Judgment within six (6) months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture; (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished; and (3) the trustee's recommendations. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the United States, which shall have the right

to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of this Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VI. Notice of Proposed Divestiture

A. Within two (2) business days following execution of a definitive divestiture agreement, Defendants or the trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the United States of any proposed divestiture required by Section IV or V of this Final Judgment. If the trustee is responsible, it shall similarly notify Defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from Defendants, the proposed Acquirer, any other third party, or the trustee, if applicable, additional information concerning the proposed divestiture, the proposed Acquirer, and any other potential Acquirer. Defendants and the trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice, or within twenty (20) calendar days after the United States has been provided the additional information requested from Defendants, the proposed Acquirer, any third party, and the trustee, whichever is later, the

United States shall provide written notice to Defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to Defendants' limited right to object to the sale under Section V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by Defendants under Section V(C), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. Financing

Defendants shall not finance all or any part of any purchase made pursuant to Section IV or V of this Final Judgment.

VIII. Hold Separate

Until the divestiture required by this Final Judgment has been accomplished, Defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestiture ordered by this Court.

IX. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestiture has been completed under Section IV or V, Defendants shall deliver to the United States an affidavit as to the fact and manner of its compliance with Section IV or V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30)

calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts Defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to a prospective Acquirer, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by Defendants, including limitation on information, shall be made within fourteen (14) calendar days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, Defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions Defendants have taken and all steps Defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in Defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestiture has been completed.

X. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether this Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time authorized representatives of the United States Department of Justice Antitrust Division ("DOJ"), including consultants and other persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted:

(1) access during Defendants' office hours to inspect and copy, or at the option of the United States, to require Defendants to provide hard copy or electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, Defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports or respond to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If, at the time information or documents are furnished by Defendants to the United States, Defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure," then the United States shall give Defendants ten (10) calendar days' notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. No Reacquisition

Defendants may not reacquire any part of the Divestiture Assets during the term of this Final Judgment.

XII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten (10) years from the date of its entry.

XIV. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States's responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and responses to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____

Court approval subject to procedures of
Antitrust Procedures and Penalties Act,
15 U.S.C. § 16.

_____
United States District Judge