UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, *Plaintiff,* v. L'OREAL USA, INC., L'OREAL S.A., and CARSON, INC., *Defendants.*	)	Civil Action No. _____ Judge _____ Filed: __/__/00

HOLD SEPARATE STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned parties, subject to approval and entry by this Court, that:

I.
DEFINITIONS

As used in this Hold Separate Stipulation and Order:

A. "Acquirer" means the entity to whom Defendants or the trustee divest the Hair Care Assets or to whom the trustee divests the Divestiture Assets.

B. "L'Oreal" means Defendant L'Oreal S.A., a French corporation headquartered in Paris, France, and Defendant L'Oreal USA, Inc., a Delaware corporation headquartered in New York, New York, and includes all successors and assigns, and all parents, subsidiaries, divisions (including Soft Sheen Products, Inc.), groups, affiliates, partnerships and joint ventures, and their

directors, officers, managers, agents, and employees.

C. "Carson" means Defendant Carson, Inc., a Delaware corporation with its headquarters in Savannah, Georgia, and includes its successors and assigns, and its parents, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

D. "Hair Care Assets" mean:

(1) (a) all tangible assets used primarily in the research, development, marketing, servicing or sale of any product that Carson sold, sells or has plans to sell under the Relevant Brand Names, including, but not limited to: materials, supplies, and other tangible property and all assets used primarily with such products; and

(b) all tangible assets relating to any product that Carson sold, sells or has plans to sell under the Relevant Brand Names, including, but not limited to, all licenses, permits and authorizations issued by any governmental organization; all contracts, teaming arrangements, agreements, commitments, certifications, and understandings, including supply agreements; all customer lists, contracts, accounts, and credit records; all agreements with retailers, wholesalers, or any other person regarding the sale, promotion, marketing, advertising or placement of such products; product inventory, packaging and artwork relating to such packaging; molds and silk screens; and all performance records and all other records.

(2) all intangible assets used in the research, development, production, marketing, servicing or sale of any product that Carson sold, sells, or has plans to sell under the Relevant Brand Names, including, but not limited to: all legal rights, including intellectual property rights, associated with the products, including trademarks, trade names, service names, service marks, designs, trade dress, patents, copyrights and all licenses and sublicenses to such intellectual property; all legal rights to use the names "Johnson Products Co., Inc." and "JP," and any derivation thereof; all trade secrets; all technical information, computer software and related documentation, and know-how, including, but not limited to, recipes and formulas, and information relating to plans for, improvements to, or line extensions of, the products; all research, packaging, sales, marketing, advertising and distribution know-how and documentation, including plan-o-grams, marketing and sales data, packaging designs, quality assurance and control procedures; all manuals and technical information Carson provided to their

own employees, customers, suppliers, agents or licensees; all specifications for materials, and safety procedures for the handling of materials and substances; all research information and data concerning historic and current research and development efforts, including, but not limited to, designs of experiments and the results of successful and unsuccessful designs and experiments.

(3) with respect to any identifiable and specific trade secrets, recipes, formulas or know-how that, prior to the merger, were being used in the production or development of products sold under the Relevant Brand Names and any product not being divested, the Acquirer shall provide to Defendants a non-exclusive, transferable, royalty-free right to use any such trade secrets, recipes, formulas or know-how in the production or development of any non-divested product.

E. "Plant Assets" mean all of the following assets: Carson's facility and property located at 8522 South Lafayette Avenue, Chicago, Illinois, and with respect to such facility, all manufacturing, research and development equipment, tooling and fixed assets, personal property, real property, titles, interests, leases, input inventory, office furniture, materials, supplies, drawings, blueprints, designs, design protocols, specifications for parts and devices, and safety procedures for the handling of plant equipment and substances, and all other tangible property.

F. "Divestiture Assets" mean the Hair Care Assets and the Plant Assets.

G. "Relevant Brand Names" mean:

(1) Gentle Treatment;

(2) Ultra Sheen; and

(3) any other name that uses, incorporates, or references either the Ultra Sheen or Gentle Treatment name, including, but not limited to, Ultra Sheen Supreme, Ultra Sheen Supreme Valu-Pak, Ultra Sheen Gro Natural, Ultra Sheen Extra Dry, Ultra Sheen Soft Touch, Ultra Sheen Hair Food, Ultra Sheen Anti-Itch, and Ultra Sheen Creme Satin Press, but not including the names Precise and Perfect Performance. With respect to the Precise name, Perfect Performance name or any other brand name or product, Defendants shall not use, incorporate or reference the names JP or Johnson Products, Co., Inc. (or any derivation thereof), or the names Gentle Treatment or Ultra Sheen.

II.
OBJECTIVES

The Final Judgment filed in this civil action is meant to ensure prompt divestitures for the purpose of establishing a viable competitor in the ethnic hair care industry in order to remedy the effects that the United States alleges would otherwise result from L'Oreal's acquisition of Carson. The Hold Separate Stipulation and Order ensure, prior to such divestitures, that the Hair Care Assets remain economically viable as part of an ongoing business that will remain independently managed by the Designated Personnel (as defined in Section V(I) below) and not influenced by L'Oreal, and that competition is maintained during the pendency of the ordered divestitures.

III.
JURISDICTION AND VENUE

This Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

IV.
COMPLIANCE WITH AND ENTRY OF FINAL JUDGMENT

A. The parties stipulate that a Final Judgment in the form attached hereto as Exhibit A may be filed with and entered by this Court, upon the motion of any party or upon this Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that the United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with this Court.

B. Defendants shall abide by and comply with the provisions of the proposed Final

Judgment, pending the Judgment's entry by this Court, or until expiration of time for all appeals of any court ruling declining entry of the proposed Final Judgment. Defendants, from the date of the signing of this Stipulation by the parties, shall comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of this Court.

C. Defendants shall not consummate the transaction sought to be enjoined by the Complaint filed in this action until after this Court has signed and entered this Hold Separate Stipulation and Order.

D. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to this Court.

E. In the event that (1) the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any court ruling declining entry of the proposed Final Judgment, and this Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, or (2) the United States has withdrawn its consent, as provided in Section IV(A) above, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without evidentiary prejudice to any party in this or any other proceeding.

F. Defendants represent that the divestitures ordered in the proposed Final Judgment can and will be made, and that Defendants will later raise no claim of mistake, hardship or difficulty of compliance as grounds for asking this Court to modify any of the provisions contained therein.

V.
HOLD SEPARATE PROVISIONS

Until the divestitures required by the Final Judgment have been accomplished:

A. Defendants shall preserve, maintain, and continue to operate the products sold under the Relevant Brand Names as an economically viable part of an ongoing competitive business, with management, research, development, promotions, marketing, and terms of sale of such products held entirely separate, distinct and apart from those of L'Oreal's other operations. L'Oreal shall not coordinate its management, research, development, promotions, marketing, or terms of sale with any products sold under any of the Relevant Brand Names. Within twenty (20) calendar days after either the filing of the Complaint or the entry of the Hold Separate Stipulation and Order, whichever is earlier, each Defendant shall deliver to the United States an affidavit that describes in reasonable detail all actions Defendant has taken and all steps Defendant has implemented on an ongoing basis to comply with this Hold Separate Stipulation and Order.

B. Defendants shall take all steps necessary to ensure that: (1) the products sold under the Relevant Brand Names will be maintained and operated as independent, ongoing, economically viable and active competitive products in the ethnic hair care industry, including the adult women's hair relaxer kit market; (2) management of the Hair Care Assets will be conducted by the Designated Personnel and not be influenced by L'Oreal (or Carson); and (3) the books, records, competitively sensitive sales, marketing, promotion and pricing information, and decision-making concerning research, development, production, distribution, marketing, promotion or sales of products under any of the Relevant Brand Names will be kept separate and apart from Defendants' other operations.

C. Defendants shall use all reasonable efforts to maintain the research, development,

sales, revenues, marketing, promotion, shelf-space, advertising, and distribution of the products sold under the Relevant Brand Names, and shall maintain at fiscal year 2000 or previously approved levels for fiscal year 2001, whichever are higher, all research, development, product improvement, promotional, advertising, sales, distribution, technical assistance, marketing and merchandising support for those products. Defendants shall also ensure that all plans and efforts to improve current products sold, or to introduce new products under, the Relevant Brand Names are continued.

D. Defendants shall provide sufficient working capital and lines and sources of credit to continue to maintain the products sold under the Relevant Brand Names as economically viable and competitive, ongoing products, consistent with the requirements of Sections V (A) and (B) above.

E. Defendants shall take all steps necessary to ensure that the Divestiture Assets are fully maintained in operable condition at no less than current capacity and sales, and shall maintain and adhere to normal repair, product improvement and upgrade, and maintenance schedules for the Divestiture Assets.

F. Defendants shall not, except as part of a divestiture approved by the United States in accordance with the terms of the proposed Final Judgment, remove, sell, lease, assign, transfer, pledge or otherwise dispose of any of the Divestiture Assets.

G. Defendants shall maintain, in accordance with sound accounting principles, separate, accurate and complete financial ledgers, books and records that report on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues and income of the Divestiture Assets.

H. Carson's employees with primary responsibility for the research, development,

marketing, promotion, production, operation, distribution, or sale of the products sold under the Relevant Brand Names, shall not be terminated, transferred or reassigned to other areas within Carson or L'Oreal except for transfer bids initiated by employees pursuant to Defendants' regular, established job posting policy. Defendants shall provide the United States with ten (10) calendar days notice of such transfer. The Designated Personnel shall not be terminated, transferred or reassigned prior to a divestiture pursuant to the terms of the Final Judgment.

I. Until such time as the Hair Care Assets are divested pursuant to the terms of the Final Judgment, the Hair Care Assets shall be managed by Donald N. Riley and Curdedra N. Andrews (collectively "Designated Personnel"). The Designated Personnel shall have complete managerial responsibility for the Hair Care Assets, subject to the provisions of this Order and the proposed Final Judgment, and will be responsible for Defendants' compliance with this Section. In the event that the Designated Personnel are unable to perform their duties, Defendants shall appoint, subject to the approval of the United States, a replacement within ten (10) working days. Should Defendants fail to appoint a replacement acceptable to the United States within ten (10) working days, the United States shall appoint a replacement. Defendants shall take no action that would interfere with the ability of the Designated Personnel or any later appointed persons to oversee the Hair Care Assets.

J. Defendants shall take no action that would interfere with the ability of any trustee appointed pursuant to the Final Judgment to complete the divestitures pursuant to the Final Judgment to an Acquirer acceptable to the United States.

K. This Hold Separate Stipulation and Order shall remain in effect until consummation of the divestitures required by the proposed Final Judgment or until further order of this Court.

Dated: 31 July 2000
Washington, D.C.

Respectfully submitted,

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O R D E R

IT IS SO ORDERED by this Court, this ____ day of _____, 2000.

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United States District Judge