IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, U.S. Department of Justice Antitrust Division 325 Seventh Street, N.W., Suite 500 Washington, DC 20530, Petitioner, v. SMITH INTERNATIONAL, INC. 16740 East Hardy Road Houston, Texas 77032, and SCHLUMBERGER LTD. 277 Park Avenue New York City, New York 10172, Respondents.	Supplemental to Civil Action No. 93-2621-- SS Judge Stanley Sporkin

PETITION BY THE UNITED STATES FOR AN ORDER TO SHOW CAUSE WHY RESPONDENTS SMITH INTERNATIONAL, INC. AND SCHLUMBERGER LTD. SHOULD NOT BE FOUND IN CIVIL CONTEMPT

The United States of America, by its attorneys, acting under the direction of the Attorney General of the United States, presents this Petition for an Order requiring Respondents Smith International, Inc. and Schlumberger Ltd. to show cause why they should not be found in civil contempt of the Final Judgment entered by this Court on April 12, 1994 in United States v. Baroid, et al. Civil Action No. 93-2621 (1993) ("Final Judgment"), as modified by this Court's Order on September 19,

1996. Copies of the Final Judgment and this Court's Order modifying it are appended as Exhibits 1 and 7. The United States represents as follows:

DESCRIPTION OF THE RESPONDENTS

1. Respondent Smith International, Inc., ("Smith") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 16740 Hardy St., Houston, Texas 77205.

2. Respondent Schlumberger Ltd. ("Schlumberger") is a corporation organized and existing under the laws of The Netherlands with its principal place of business in the United States at 277 Park Avenue, New York City, New York 10172.

JURISDICTION OF THE COURT

3. This Court has inherent power to enforce compliance with its Orders. Paragraph XIV of the Final Judgment similarly provides:

> Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any provision hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

FINAL JUDGMENT OF THE COURT

4. On December 23, 1993, the United States filed a civil antitrust Complaint under Section 7 of the Clayton Act to block the merger of Dresser Industries, Inc. ("Dresser") and Baroid Corporation ("Baroid"), alleging that the transaction would substantially lessen competition in the diamond drill bit and drilling fluid markets. [Exhibit 2] Dresser competed in the drilling fluid business

through its 64 percent interest in M-I Drilling Fluids (now known as M-I L.L.C. and hereinafter referred to as M-I); Baroid competed through its subsidiary Baroid Drilling Fluids.

5. Simultaneously with the Complaint, the United States filed a proposed Final Judgment. To preserve competition in drilling fluids, Paragraph IV.A. of the Final Judgment ordered Dresser to divest the "drilling fluid business," which was defined as either its 64 percent interest in M-I or all assets of Baroid Drilling Fluids, plus any other assets of Baroid Corporation used for its domestic or international drilling fluid business.

6. Paragraph IV.F. of the Final Judgment imposed restrictions on the purchaser of the drilling fluid business:

> The purchaser of the divested drilling fluid business shall not sell the drilling fluid business to, or combine that business with the drilling fluid operations of Dresser Industries, Inc., Baker Hughes, Inc., Schlumberger Ltd., or Anchor Drilling Fluids, or any of their affiliates or subsidiaries during the life of this decree.

7. The Court entered the Final Judgment on April 12, 1994. Dresser chose to divest its interest in M-I and sold the interest to Smith. As required by Paragraph III.B. of the Final Judgment, Smith, as a condition of the divestiture, agreed to be bound by the provisions of the Final Judgment. [Exhibit 4]

8. In 1996, Smith proposed acquiring Anchor Drilling Fluids, a Norwegian company that produced and sold drilling fluids worldwide. The United States joined Smith in a motion to modify the Final Judgment to allow the acquisition, provided Smith divest the United States drilling fluid operations of Anchor, referred to as Anchor USA. [Exhibits 5 and 6]

9. This Court entered an Order on September 19, 1996, approving the modification. [Exhibit 7] The Order continued the bar on selling the divested drilling fluid business to, or combining that business with, the drilling fluid operations of Schlumberger. That Order also provided: "With respect to Smith International, Inc., the terms of this Final Judgment shall expire on the tenth anniversary of the date this Order is filed and entered."

VIOLATION OF THE FINAL JUDGMENT

10. Smith and Schlumberger started discussing the formation of a joint venture of M-I and Schlumberger's drilling fluid operations in 1998, after Smith acquired the remaining 36 percent interest in M-I from Halliburton Company. Smith and Schlumberger signed a Memorandum of Understanding on October 21, 1998 and executed a formal joint venture agreement on February 5, 1999. Under the agreement, Schlumberger would pay Smith $280 million for a 40 percent interest in a joint venture that would include M-I, and the parties would combine the operations of M-I and Schlumberger's worldwide drilling fluid business. The joint venture agreement recognized that the transaction could not proceed without modification of the Final Judgment:

> 8.5 Modification Should the parties fail to receive modification of the consent decree entered in *United States v. Baroid Corp*., 1994-1 Trade Cas. (CCH) ¶ 70,572 (April 12, 1994) and therefore fail to meet the condition precedent to closing set forth in Section 7.1(b), the parties agree to negotiate in good faith to try to find a mutually agreeable and legally permissible alternative whereby the substantive ends of this Agreement will be achieved.

[Exhibit 8]

11. The Antitrust Division opened an investigation to determine if the Division should consent to modification of the Final Judgment to permit Smith and Schlumberger to form the joint venture. On July 1, Schlumberger wrote the Division that it had decided to discontinue its U.S. drilling fluid operations, and that "it seems clear that the *U.S. v. Baroid* decree should not prohibit Schlumberger and Smith from consummating their proposed joint venture . . . ." [Exhibit 9] Then, on July 8, 1999, Smith's counsel wrote the Division that with the decision to shut down Schlumberger's U.S. drilling fluid operations, "the Baroid decree does not apply to this transaction" and that the parties planned to close and would provide the United States with 48 hours notice. [Exhibit 10] On July 12, 1999, Smith's counsel advised that the parties intended to close the transaction on July 14. [Exhibit 11]

12. On July 13, 1999, the Division sent, and Smith and Schlumberger received, a letter that stated, "In [the Division's] view, such action by Smith would clearly violate the Final Judgment entered by Judge Sporkin in United States v. Baroid Corporation, et al., Civil Action 93-2621." [Exhibit 12]

13. On July 14, 1999, Smith and Schlumberger consummated the transaction. [Exhibit 13]

14. Smith and Schlumberger proceeded with a transaction that contravened the clear and unambiguous language in the Final Judgment despite warning by the United States that doing so would violate the Final Judgment. The transaction violates the Final Judgment in two respects. First, Smith has sold an interest in a joint venture that includes M-I to Schlumberger in contravention of the clause in the Final Judgment prohibiting it from selling the divested drilling fluid business to Schlumberger. Second, Smith has combined the divested drilling fluid business with Schlumberger's drilling fluid operations in contravention of the clause in the Final Judgment prohibiting them from doing so. In

consummating the joint venture, Smith and Schlumberger knowingly violated an Order of this Court and are in civil contempt.

PRAYER

WHEREFORE, for the foregoing reasons, and as set forth more fully in its Memorandum in support of this Petition, the United States respectfully requests that this Court enter an Order directing Respondents to appear before this Court at a time and place to be fixed in said Order, to show cause why they should not be adjudged in civil contempt of this Court and prays for the following relief:

(1) find Smith and Schlumberger in civil contempt;

(2) order Smith and Schlumberger within five days to rescind the joint venture and restore their respective drilling fluid businesses to their pre-transaction conditions;

(3) require Smith and Schlumberger each to pay an amount not less than $100,000 for each day they are in violation of the Court's Order to comply with the Final Judgment;

(4) award the United States its costs and attorneys fees incurred in filing this petition to show cause; and

(5) grant any and all other relief as the Court may deem justified by Smith's and Schlumberger's actions.

Dated: July 27, 1999

Respectfully submitted,

_____/s/_____
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_____/s/_____
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