

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

UNITED STATES OF AMERICA,,)
c/o Department of Justice)
Antitrust Division)
Washington, D.C. 20530 Plaintiff,)

v.)

THE COASTAL CORPORATION,)
Coastal Tower)
Nine Greenway Plaza)
Houston, Texas 77046 Defendant.)

Civil Action No. 84-267

Filed: August 30, 1984

COMPLAINT FOR CIVIL PENALTY

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States and at the request of the Federal Trade Commission, brings this civil action to obtain monetary relief in the form of a civil penalty against the defendant named herein, and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and these proceedings are instituted under Section 7A of the Clayton Act, 15 U.S.C. § 18a, commonly known as the Hart-Scott-Rodino ("HSR") Act, in order to recover a civil penalty for a violation by defendant of the HSR Act.

2. This Court has jurisdiction over defendant and over the subject matter of this action pursuant to the HSR Act and 28 U.S.C §§ 1331, 1337, 1345.

3. Venue is proper by virtue of defendant's consent, in the Stipulation relating hereto, to the maintenance of this action and entry of Final Judgment in this District.

II

DEFENDANT

4. The Coastal Corporation ("Coastal") is made a defendant herein. Coastal is a corporation organized and existing under the laws of the State of Delaware and has its principal place of business at Coastal Tower, Nine Greenway Plaza, Houston, Texas 77046.

III

VIOLATION ALLEGED

5. Section (a) of the HSR Act, 15 U.S.C. § 18a(a), prohibits certain acquisitions of voting securities or assets until a notification has been filed and a waiting period has expired.

6. On January 19, 1984, Coastal, which already held voting securities of Houston Natural Gas Corporation ("HNG") valued in excess of \$15 million, purchased 75,500 additional shares of HNG common stock.

7. Both Coastal and HNG are engaged in interstate commerce and in activities affecting interstate commerce.

8. Both Coastal and HNG have annual net sales in excess of \$100,000,000.

9. The transaction described in paragraph 6 above was subject to the reporting and waiting period requirements of the HSR Act and the regulations thereunder, 16 C.F.R. § 801.1 et. seq.

10. Coastal did not comply with the reporting and waiting period requirements of the HSR Act before it acquired the 75,500 shares of HNG common stock on January 19, 1984.

11. Subsequent to Coastal's January 19, 1984 purchase, on January 27, 1984, Coastal made a public announcement of a tender offer to acquire additional shares of HNG common stock and, pursuant to the requirements of the HSR Act and the regulations thereunder, 16 C.F.R. § 801.1 et. seq., filed a notification and report form. The HSR Act waiting period relating to Coastal's tender offer expired at 11:59 P.M., February 11, 1984.

12. Coastal was in violation of the HSR Act at least through February 11, 1984.

13. Coastal has divested the 75,500 shares it acquired on January 19, 1984, as evidenced by its letter of June 5, 1984, attached hereto as Attachment 1. Coastal was required to divest those shares by an agreement it entered into with the Bureau of Competition of the Federal Trade Commission on February 10, 1984, attached hereto as Attachment 2.

14. Section (g)(1) of the HSR Act, 15 U.S.C. § 18a(g)(1), authorizes a civil penalty of not more than \$10,000 for each day during which a person is in violation of the HSR Act.

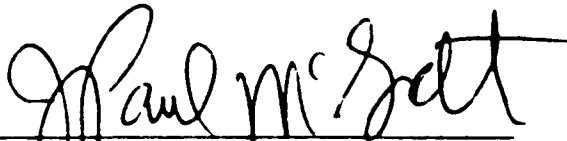
PRAYER

WHEREFORE, plaintiff prays:

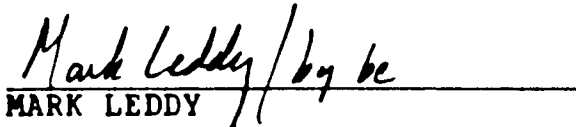
1. That defendant's purchase of 75,500 shares of HNG stock on January 19, 1984, be adjudged and decreed to be in violation of the HSR Act, and that defendant be adjudged and decreed to have been in violation of the HSR Act at least through February 11, 1984;

2. That defendant be ordered to pay to the United States Treasury a civil penalty of \$230,000; and

3. That the plaintiff have such other and further relief as the Court may deem just and proper.



J. PAUL McGRATH
Assistant Attorney General





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DA

84-a

The Coastal Corporation

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Austin M. O'Toole
Senior Vice President and
Associate General Counsel

June 5, 1984

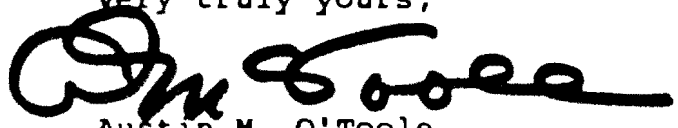
Mr. Dana Abrahamsen
Pre-Merger Office
Bureau of Competition
Federal Trade Commission
Washington, D.C. 20580

REC'D
JUN 7 1 21 PM '84
FEDERAL TRADE COMMISSION
OFFICE OF THE DIRECTOR

Dear Mr. Abrahamsen:

Reference is made to that certain letter dated February 10, 1984 from the Director of the Bureau of Competition, Federal Trade Commission, addressed to George L. Brundrett, Jr., Senior Vice President and General Counsel of The Coastal Corporation. Pursuant to that letter agreement, please be advised that The Coastal Corporation has divested itself of the 75,500 shares of Common Stock of Houston Natural Gas Corporation acquired on January 19, 1984, which disposition took place within ten (10) business days of the execution of such letter agreement.

Very truly yours,



Austin M. O'Toole

AMO'T:pdo

This material may be subject to
the discovery and admissibility provisions of
Rule 26(b)(3) of the Clayton Act
and may be released under the
Freedom of Information Act



Bureau of Competition
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

February 10, 1984

George L. Brundrett, Jr., Esquire
Senior Vice President, General Counsel
The Coastal Corporation
Nine Greenway Plaza
Houston, Texas 77046

Re: The Coastal Corporation's Obligation to File a
Hart-Scott-Rodino Premerger Notification Form
Under Section 7A of the Clayton Act

Dear Mr. Brundrett:

This letter states the terms of the agreement between the Bureau of Competition and The Coastal Corporation ("Coastal") concerning the Bureau's investigation of possible violations of Section 7A of the Clayton Act, 15 U.S.C. § 18a ("the Act"), by Coastal.

On January 19, 1984, Coastal, which already held voting securities of Houston Natural Gas Corporation ("HNG") valued in excess of \$15 million, purchased 75,500 additional shares of HNG common stock. Prior to purchasing this stock, Coastal did not file a Hart-Scott-Rodino premerger notification and report form nor observe the waiting period required by the Act. We understand that Coastal's position is that it did not file a notification and report form because it believed that the purchases of January 19th were made "solely for the purpose of

investment" as that term is used in the Act¹ and the Act's implementing regulations.² The Bureau has reason to believe, however, that Coastal's purchases of HNG voting securities on January 19, 1984, were not made "solely for the purpose of investment."

The Bureau construes the term "solely for the purpose of investment," as that term is used in the Act and in the premerger rules, to apply only to purchases of voting securities made with the intention to hold the stock as a passive investment. The Bureau's investigation of Coastal's purchases of HNG stock indicates that at the time of Coastal's January 19th purchases, Coastal's intent included the possibility of acquiring control of HNG. The Bureau understands, however, that Coastal maintains that at the time it made its January 19th purchases, it had the investment intention necessary to rely on the "solely for the purpose of investment" exemption.

Having been informed of the Bureau's position regarding its January 19th purchases, and in reliance on the Bureau's statements concerning its intended actions set forth below, Coastal has agreed (i) to divest, within ten (10) business days of the execution of this agreement, 75,500 shares of HNG common stock, that being the number of shares acquired by Coastal on

¹ 15 U.S.C. § 18a(c)(9).

² This term is defined at 16 C.F.R. § 801.1 and is used in the premerger rules at 16 C.F.R. § 802.9. Under the Act and the rules, Coastal would be entitled to purchase up to 10% of HNG's voting securities without filing a notification and report form or waiting the required period if the purchases were made "solely for the purpose of investment."

January 19, 1984, and (ii) to enter into a Final Judgment in substantially the form attached hereto as Attachment A.

The Bureau has determined to close its investigation³ and not to seek the issuance of a request for additional information under Section 7A(e) of the Act with respect to the alleged violation by Coastal. In addition, in reliance upon Coastal's agreement to take the actions just described, the Bureau has determined to recommend that the Commission request the Department of Justice to file a Complaint and a Stipulation in substantially the form attached hereto as Attachment B and to file a Final Judgment in substantially the form attached hereto as Attachment A.

Nothing in this letter should be construed to limit the authority of the Commission to take any enforcement action in the future with respect to the conduct described in this letter or any other conduct by Coastal.

Very truly yours,

Barbara A. Clark, Acting
for Timothy J. Muris
Director
Bureau of Competition

Accepted by:

George L. Brundrett
George L. Brundrett
Senior Vice President and
General Counsel
The Coastal Corporation

³ The Bureau has concluded its investigation of Coastal's January 19th purchases of HNG stock as well as its investigation of Coastal's earlier purchases of HNG stock.