

APPENDIX A:

UNITED STATES v. RICHFIELD OIL CO., ET AL.,

CIVIL NO. 62-1374-JWC

JUDGMENT ENTERED: JAN. 11, 1966

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Richfield Oil Corp., Cities Service Co., Empire Gas & Fuel Co., Sinclair Oil Corp., Sinclair Delaware Corp., H. L. O'Brien, B. S. Watson, J. E. Warren, P. C. Spencer, and E. L. Steiniger., U.S. District Court, S.D. California, 1967 Trade Cases ¶72,066, (Jan. 11, 1966)

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United States v. Richfield Oil Corp., Cities Service Co., Empire Gas & Fuel Co., Sinclair Oil Corp., Sinclair Delaware Corp., H. L. O'Brien, B. S. Watson, J. E. Warren, P. C. Spencer, and E. L. Steiniger.

1967 Trade Cases ¶72,066. U.S. District Court, S.D. California, Central Division. Civil No. 62-1374-JWC. Entered January 11, 1966. Case No. 1714, in the Antitrust Division of the Department of Justice.

Clayton and Sherman Acts

Acquisitions—Divestiture by Third Party Merger—Divestiture of Third Party Stock—Stipulation.—

Pursuant to a stipulation, two oil companies which had acquired 60% of the stock of an oil company which subsequently entered into a merger agreement with another oil company, agreed to divest themselves of all stock of the fourth company which they acquired from and after the merger. In view of the merger and stipulation, a government suit charging that the companies' acquisition of stock violated [Sec. 7 of the Clayton Act](#), that an interlocking directorate arrangement violated [Sec. 8 of the Clayton Act](#), and that a non-competition agreement violated [Sec. 1 of the Sherman Act](#), was dismissed as moot.

For the plaintiff: Donald F. Turner, Assistant Attorney General: William D. Kilgore, Jr., Baddia J. Rashid, Harry W. Cladouhos, and Richard P. Delaney, Attorneys, Department of Justice.

For the defendants: Paul, Weiss, Rifkind, Wharton & Garrison by Simon H. Rifkind, and Jay. H. Topkis. Musick, Peeler & Garrett by Elvon Musick, and Gerald G. Kelly, for Cities Service Co., H. L. O'Brien, B. L. Watson, and J. Ed. Warren. Joseph P. Walsh, O'Melveny & Myers by Homer I. Mitchell, and Everett B. Clary, for Sinclair Oil Corp., Sinclair Delaware Corp., P. C. Spencer, and E. L. Steiniger. Mervyn W. Phelan, and William D. Foote, Ball, Hunt and Hart by Joseph A. Ball, and Clark Heggeness. Arnold and Porter by Victor H. Kramer, for Richfield Oil Corp.

Final Judgment

[*Dismissal as Moot*]

CURTIS, D. J.: Plaintiff, the United States of America, having filed its complaint on October 9, 1962; defendants having filed answers to the complaint denying any violation of law; no testimony having been taken and there having been no trial or adjudication of any issue of fact or law herein; defendant Richfield Oil Corporation having entered into an agreement of merger with The Atlantic Refining Company; and plaintiff, The United States of America, and defendants, Cities Service Company and Sinclair Oil Corporation, having entered into a Stipulation, a copy of which is annexed hereto and is hereinafter termed "the Stipulation"; and it appearing to all parties hereto that by reason of such merger and Stipulation the issues of this suit have become moot;

Now, Therefore, upon the consent of the parties, by their respective counsel, it is hereby

Ordered, Adjudged and Decreed as follows:

1 This Court has jurisdiction of the subject matter hereof and of the parties hereto.

2 The complaint is dismissed without prejudice, as moot.

3 The defendants Cities Service Company and Sinclair Oil Corporation shall respectively comply with the terms and provisions of the Stipulation, which is made a part of this Judgment.

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4 Jurisdiction is retained for the purpose of enabling any of the signatories 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, or for the modification of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violation thereof.

Stipulation

With regard to the action “ *United States v. Richfield*,” and the proposed merger of The Atlantic Refining Company (“Atlantic”) and Richfield Oil Corporation, the United States of America, Cities Service Company and Sinclair Oil Corporation (Cities Service Company and Sinclair Oil Corporation each hereinafter being referred to as “Company”) by their respective attorneys hereby stipulate:

[*Divestiture of Merger-Acquired Stock*]

1. Within seven years of the effective date of the merger, each Company will divest itself of all Atlantic stock which it will acquire in the merger, together with any other Atlantic stock which it may acquire. All stock described in this Paragraph 1 shall hereafter be termed “Merger Stock.” Such divestiture shall hereafter be termed “full divestiture.”

[*Bar to Acquiring Stock*]

2. Prior to full divestiture, no Company will acquire any other Atlantic stock where the effect of such acquisition, at the time of acquisition, would be to increase its proportionate share of the stockholders' equity in Atlantic.

[*Common Officers*]

3. Prior to full divestiture, no director, officer, employee or other representative of any Company shall qualify or serve as a director or officer of Atlantic.

[*Voting*]

4. At any meeting of stockholders of Atlantic, each Company will vote its Merger Stock on any proposal submitted to the stockholders or any class of stockholders in accordance with the recommendation made as to such proposal by the management of Atlantic, except that:

(a) Each Company may freely vote or refrain, from voting on any proposed amendment to the Articles of Association of Atlantic which would change any right, preference, or par value, or enlarge or restrict any voting or preemptive right of any class of stock, or authorize the creation of a class of stock, other than common stock, *pari passu* with or superior to any class of stock held by any Company, or authorize the Board of Directors to fix relative rights and preferences between series of any class of stock held by any Company, or revoke such authority;

(b) With the consent of the Antitrust Division of the Department of Justice, each Company may freely vote or refrain from voting on any proposal.

5. Each Company will vote its Merger Stock at any election of directors of Atlantic in accordance with the recommendation of Atlantic management, unless the Antitrust Division shall otherwise consent.

[*Notification*]

6. Each Company shall, at least fifteen (15) days prior to its divestiture of all or any part of its Merger Stock in excess of five percent (5%) of the original holding, directly or indirectly, to any transferee engaged in any aspect of the petroleum industry, notify the Antitrust Division in writing of its intention to effect such divestiture, disclosing the type of stock or other interest to be divested, the amount thereof, the name or description of the transferee(s), the plan of divestiture and the conditions thereof, and such other information relating thereto as may be requested by the Antitrust Division. In the event the Assistant Attorney General in charge of the Antitrust Division interposes any objection, such proposed divestiture shall not be made until approved by this Court upon motion of the Company concerned. Each Company shall notify the Antitrust Division, within five (5) days after

any other transfer, disclosing the type of stock or other interest transferred, the amount thereof and the name or description of the transferee(s).

7. Upon motion of any party, and upon a showing that the aforesaid merger has been consummated, the annexed Judgment may be entered without further notice.

[Inspection and Compliance]

8. (a) For the purpose of insuring compliance with this Stipulation, duly authorized representatives of the Department of Justice shall, upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, upon reasonable notice to any Company at its principal office, subject to any legally recognized privilege, be permitted:

(i) Access during office hours of the Company to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession of or under the control of the Company relating to any of the matters contained in this Stipulation; and

(ii) Subject to the reasonable convenience of the Company, and without restraint or interference, to interview the officers and employees of the Company, who may have counsel present, regarding any such matters.

(b) For the purpose of securing compliance with this Stipulation, each Company, upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, made to its principal office, shall submit such written reports with respect to any of the matters contained in this Stipulation as from time to time may be necessary for the enforcement of this Stipulation.

(c) No information obtained by the means permitted in this Paragraph 8 shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings in which the United States is a party or as otherwise required by law.

9. Each Company represents that its subsidiaries will abide by the terms of this Stipulation.