

**UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,
Plaintiff,

v.

AQUA SYSTEMS, INC., *et al.*,
Defendants.

1:21-mc-12
(Originally Civil Action No. 19-516)

DECLARATION OF KATHRYN KUSHNER

I, Kathryn Kushner, do hereby declare and state as follows:

1. I am an attorney admitted to practice in New York. I have been employed as a Trial Attorney at the United States Department of Justice Antitrust Division for approximately four years.

2. This Declaration is being submitted in support of the United States of America's Motion to Terminate A Legacy Antitrust Judgment in the above-captioned matter.

3. The statements made in this Declaration are based on the knowledge acquired by me in the performance of my official duties and in conjunction with factual research conducted by other attorneys and staff in the Antitrust Division.

4. In early 2018, the Department of Justice Antitrust Division implemented a program to review and, when appropriate, seek termination of older antitrust judgments in which parties were subjected to some type of affirmative obligation or express prohibition that did not have an expiration date. As part of this process, the Division researched the corporate status of entities subject to these older, legacy antitrust judgments.

5. For the judgments in this case, librarians of the Antitrust Division were instructed to research and confirm the corporate status of the corporate defendants. The librarians searched the following public sources to determine corporate status.

- a. A search of the New York Department of State Division of Corporations database. If the final judgments (as submitted to this Court) or other web search (see below) suggested incorporation information for a defendant in another state, the librarians also checked that state for corporate status.
- b. A search of the Encyclopedia of Associations and IRS Tax Exempt Organization Search, where such organizations or associations were subject to a judgment.
- c. A search of web-based resources for the existence (or succession) of the entity. In addition to general web-based searches, the search included research in one or more of the following resources:
 - i. Lexis and/or Westlaw (news, company, and/or litigation search);
 - ii. historical newspapers from Newsbank, ProQuest, and/or Newspapers.com; and
 - iii. historical company directories held by the Antitrust Division Library.

6. Based on the information provided to me by the librarians, I believe that TechnipFMC plc (“Technip”) is the successor of Defendant Aqua Systems, Inc. I contacted Stephen Ryan, Vice President of Global Litigation for Technip, regarding these judgments. On December 15, 2020, Mr. Ryan confirmed that Technip does not object to the termination of the above-captioned judgments.

7. Based on the information provided to me by the librarians, I believe that Defendant Flotation Systems, Inc. is no longer in operation. The company appears to have gone bankrupt in or around 1946, according to the bankruptcy proceeding cited in *In re Flotation Systems*, 65 F. Supp. 698 (S.D. Cal. 1946).

8. In addition to Aqua Systems, Inc. and Flotation Systems, Inc., there were seven individual defendants bound by the final judgments. Given the age of the judgments and the passage of time, it is highly unlikely that any of the defendants is still actively engaged in the relevant activities from the judgment.

Having reviewed this Declaration, I declare, under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

Dated: January 14, 2021
New York, New York

/s/ Kathryn Kushner
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