

IN THE MATTER OF

CONTINENTAL OIL COMPANY ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF THE CLAYTON ACT

Docket C-1270. Complaint, Nov. 21, 1967—Decision, Nov. 21, 1967

Consent order requiring two corporations with headquarters in New York City to terminate a joint venture in the manufacture and sale of vinyl chloride monomer (VCM) and requiring Continental to sell two acquired affiliated producers of polyvinyl chloride resins (PVC).

COMPLAINT

The Federal Trade Commission, having reason to believe that Continental Oil Company and Stauffer Chemical Company have violated the provisions of Section 7 of the Clayton Act and Section 5(a) (1) of the Federal Trade Commission Act, 15 U.S.C. § § 18 and 45(a) (1), and that a proceeding in respect thereof would be to the interest of the public, issues this complaint stating its charges as follows:

I. DEFINITIONS

1. For the purposes of this complaint, the following definitions are applicable:

(a) Vinyl chloride monomer—a chemical identity, $\text{CH}_2=\text{CHCl}$, also called monochloroethylene;

(b) Polyvinyl chloride resin—polyvinyl chloride homopolymers and polyvinyl chloride copolymers:

(1) Polyvinyl chloride homopolymer—a resin produced by the polymerization of vinyl chloride monomer;

(2) Polyvinyl chloride copolymer—a resin which by weight contains 50 percent or more vinyl chloride monomer copolymerized with other comonomers such as vinyl acetate or vinylidene chloride;

(c) Polyvinyl chloride compound—polyvinyl chloride resin mixed physically, usually under heat and pressure, with plasticizers, fillers, stabilizers, pigments or other additives.

II. THE RESPONDENTS

A. Continental Oil Company

2. Respondent Continental Oil Company ("Continental") is a corporation organized and existing under the laws of the State of Delaware, with its principal office and principal place of business at 30 Rockefeller Plaza, New York, New York 10020.

3. Continental, in 1965, was the 37th largest industrial corporation in the United States in terms of sales and the 28th

largest in terms of assets. Continental's total sales in 1965, excluding excise taxes, were almost \$1.5 billion; its assets, as of December 31, 1965, were more than \$1.6 billion; and its retained earnings exceeded \$660 million.

4. Continental, together with its consolidated subsidiaries, is a fully integrated oil company which distributes petroleum products in almost every State of the United States. Its operations include exploration for and production of crude oil and natural gas; the refining, transporting and marketing of petroleum; and the manufacture and marketing of petrochemical chemical products.

5. In December, 1964, Continental acquired the assets of Carlson Products Corporation, previously a 53.8 percent owned subsidiary, which manufactures plastic pipe and fittings from various materials including polyvinyl chloride resins and compounds.

6. Continental produces in its own plants and through affiliates a variety of chemical and plastics products, most of which are petroleum based. Sales of chemicals, carbon blacks and plastics were \$132 million in 1965.

7. Continental is and for many years has been extensively engaged in the purchase, sale and shipment across State lines of petroleum, chemicals and other products. Continental is engaged in "commerce" within the meaning of the Clayton and Federal Trade Commission Acts.

B. Stauffer Chemical Company

8. Respondent Stauffer Chemical Company ("Stauffer") is a corporation organized and existing under the laws of the State of California, with its principal office and principal place of business at 380 Madison Avenue, New York, New York 10017.

9. Stauffer, in 1965, was the 210th largest industrial corporation in the United States in terms of sales and the 161st largest in terms of assets. Stauffer's total sales in 1965 exceeded \$326 million; its assets, as of December 31, 1965, were approximately \$324 million; and its retained earnings were more than \$117 million.

10. Stauffer is principally a producer of industrial and agricultural chemicals. The products of its Plastics Division, one of Stauffer's seven domestic operating divisions, include polyvinyl chloride resins and vinyl film and sheeting.

11. Stauffer is a significant producer of polyvinyl chloride resins. Its new plant at Delaware City, Delaware went on stream in the spring of 1966 and has a projected capacity of 60 million pounds of polyvinyl chloride resins per year by 1967.

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12. Toscony-Kayetex, a wholly owned subsidiary of Stauffer, produces flexible vinyl film and sheeting, printed vinyl fabrics and laminates of vinyl with other materials. In the first six months of 1965, Toscony-Kayetex processed almost 9 million pounds of polyvinyl chloride resins.

13. Stauffer produces substantial amounts of chlorine, a basic raw material for vinyl chloride monomer. In 1964, Stauffer produced nearly 388 million pounds of chlorine.

14. Stauffer is a participant with Atlantic Richfield Company in American Chemical Corporation, a joint venture established in 1958 for the production of vinyl chloride monomer, polyvinyl chloride and other products. Stauffer is also a participant with American Hoechst Corporation, a wholly owned subsidiary of Farbwerke Hoechst A. G. of West Germany, in Stauffer Hoechst Polymer Corporation, a joint venture established in 1964 for the production of rigid vinyl film and sheeting.

15. Stauffer is and for many years has been extensively engaged in the purchase, sale and shipment across State lines of industrial and agricultural chemicals, plastics and other products. Stauffer is engaged in "commerce" within the meaning of the Clayton and Federal Trade Commission Acts.

III. THE NATURE OF TRADE AND COMMERCE

A. Vinyl Chloride Monomer

16. The vinyl chloride monomer industry has grown rapidly. Between 1960 and 1965 production of vinyl chloride monomer doubled. In 1965, over two billion pounds of vinyl chloride monomer, valued at approximately \$121 million, were produced.

17. Vinyl chloride monomer is manufactured for principally one use, the production of polyvinyl chloride resins. For this reason, the growth of the vinyl chloride monomer industry is closely related to the increasing use of polyvinyl chloride resins and compounds.

18. Vinyl chloride monomer may be produced by cracking ethylene dichloride or by reacting acetylene with hydrogen chloride in the presence of a catalyst. The essential raw materials for the first process are ethylene and chlorine and for the second process, acetylene. Present indications are that domestic ethylene-based plants produce more economically than acetylene-based plants.

19. The vinyl chloride monomer industry is highly concentrated. In 1965, there were 13 companies producing vinyl chloride

monomer. In that year, the top four and nine firms accounted for 62.9 and 91.2 percent, respectively, of total industry production.

20. Barriers to entry into the production of vinyl chloride monomer are significant. One of these entry barriers is economies of scale. The average sized plant in 1965 had a capacity of approximately 150 million pounds per year and the smallest had a capacity of about 40 million pounds per year. Another entry barrier results from the widespread vertical integration of vinyl chloride monomer producers forward into the production of polyvinyl chloride resins and backward into the production of essential raw materials.

B. Polyvinyl Chloride Resin

21. The polyvinyl chloride resin industry has been characterized by rapid growth. Since 1960, production of polyvinyl chloride resins has almost doubled. In 1965, over 1.8 billion pounds of polyvinyl chloride resins, valued at approximately \$312 million, were produced.

22. A variety of products can be made from polyvinyl chloride resins and compounds, including pipe, pipe fittings, rigid sheet, containers, phonograph records, floor tile, wall coverings, shower curtains, raincoats, tubing and, more recently, bottles.

23. The polyvinyl chloride resin industry is highly concentrated. In 1965, there were 28 companies producing polyvinyl chloride resins, but the top four companies accounted for 47.3 percent of total production of these resins, and the top eight companies accounted for 70.7 percent.

24. Widespread backward and forward vertical integration of polyvinyl chloride resin producers provides significant barriers to entry into the polyvinyl chloride resin industry.

IV. ACQUISITION OF THE THOMPSON COMPANIES

A. Description of The Thompson Companies

25. On September 18, 1964, Continental entered into a contract with the stockholders of Thompson Chemical Company and Apex Tire and Rubber Company, both Rhode Island corporations, and Monroe Manufacturing Company, a Mississippi corporation (hereinafter referred to collectively as the "Thompson Companies"), whereby Continental acquired all the issued and outstanding capital stock of the Thompson Companies and certain real estate utilized by the Thompson Companies and owned by Hay Realty Corporation, a Rhode Island corporation. The consideration paid by Continental was \$30 million plus an additional

sum, contingent on the earnings of the acquired companies, not to exceed \$6 million.

26. At the time of acquisition, the Thompson Companies were the largest producers of polyvinyl chloride resins without a captive source of vinyl chloride monomer. They ranked among the eight largest producers of polyvinyl chloride resins in 1963, the year prior to acquisition by Continental.

27. In 1963, the Thompson Companies sold over 94 million pounds of polyvinyl chloride resins for more than \$12.5 million. Total sales by the Thompson Companies in 1963 were in excess of \$33 million.

28. At the time of their acquisition by Continental and continuing until their dissolution, Thompson Chemical Company, Apex Tire and Rubber Company and Monroe Manufacturing Company were engaged in the purchase of vinyl chloride monomer and/or other chemical and nonchemical products and in the sale and shipment of polyvinyl chloride resins and compounds and/or other chemical and nonchemical products across State lines. Each of the aforesaid companies was engaged in "commerce" within the meaning of the Clayton and Federal Trade Commission Acts.

B. Background of the Acquisition

29. As early as 1961, officials of Continental planned a vinyl chloride petrochemical complex for the production of both vinyl chloride monomer and polyvinyl chloride resins.

30. At the time that the acquisition of the Thompson Companies was under study, the determination of the value of the Thompson Companies to Continental was predicated on the premise that Continental would soon be a basic manufacturer of vinyl chloride monomer.

31. The Thompson Companies were liquidated into Continental in December 1964. The former assets of the Thompson Companies are now being operated by Thompson Apex Company, a Delaware corporation wholly owned by Continental.

C. Violations

32. Continental's acquisition of all the capital stock of the Thompson Companies and certain realty owned by Hay Realty Corporation may substantially lessen competition or tend to create a monopoly in the vinyl chloride monomer and/or polyvinyl chloride resin industries in the United States in violation of Section 7 of the Clayton Act, and the contract whereby such acquisition was made and the combination between Continental and the Thompson Companies are in unreasonable restraint of trade and

commerce and may hinder or have a dangerous tendency to hinder competition unduly in the vinyl chloride monomer and/or polyvinyl chloride resin industries thereby constituting an unfair act or method of competition in commerce in violation of Section 5 of the Federal Trade Commission Act, in that the following effects, among others, may result:

(a) Actual or potential foreclosure may result from the elimination of the Thompson Companies as independent customers of vinyl chloride monomer, thus depriving competitors of Continental of a fair opportunity to compete;

(b) The elimination of a significant independent producer of polyvinyl chloride resins may have a tendency to accelerate the trend toward vertical integration and elimination of independent producers of vinyl chloride monomer and of other independent producers of polyvinyl chloride resins;

(c) Potential competition in the production and sale of polyvinyl chloride resins may be substantially lessened; but for the acquisition, Continental was a significant potential entrant into the production of polyvinyl chloride resins;

(d) Actual and potential competition in the production and sale of vinyl chloride monomer and polyvinyl chloride resins may be substantially lessened by reason of the heightened barriers to entry resulting from the acquisition;

(e) Already high concentration levels in the production and sale of vinyl chloride monomer and polyvinyl chloride resins may be substantially increased and the possibility of deconcentration lessened;

(f) Continental will have competitive advantages over non-integrated producers of vinyl chloride monomer and polyvinyl chloride resins to the detriment of actual and potential competition; and

(g) Nonintegrated producers of polyvinyl chloride resins will be deprived of a noncompeting source of supply of vinyl chloride monomer.

V. JOINT VENTURE OF CONTINENTAL AND STAUFFER

A. Description of the Joint Venture

33. On April 1, 1966, Continental and Stauffer executed a "Monomer Agreement," effective February 1, 1966, establishing a joint venture. By this agreement each firm acquired an equal undivided interest in a vinyl chloride monomer plant being jointly constructed by the companies. The plant is being built at a projected cost of \$18.5 million on a site at Lake Charles, Louisiana which, prior to the effective date of the agreement, was wholly

owned by Continental. Pursuant to "Related Agreements" to the "Monomer Agreement," Stauffer acquired from Continental an undivided one-half interest in the plant site and also agreed to operate the plant utilizing Stauffer technology. Continental, pursuant to the "Related Agreements," acquired from Stauffer all of the latter's "Technical Information" and an option to license "Stauffer's Technical Information," both of which relate to vinyl chloride monomer. (The "Monomer Agreement" and "Related Agreements" are hereinafter referred to collectively as the "contract.")

34. The vinyl chloride monomer plant will have a capacity of 600 million pounds per year; Continental and Stauffer each has a right to purchase one-half of the output. Operations are projected at 75 percent capacity in 1968 and 100 percent capacity in 1970, thus creating one of the largest producers in the industry.

B. Background of the Establishment of the Joint Venture

35. For several years prior to the establishment of this joint venture, Continental had been working on developing a process for the production of vinyl chloride monomer on a commercial scale. The process Continental was developing served as one of the bases for its evaluation of the profitability of an integrated vinyl chloride monomer complex when acquisition of the Thompson Companies was under consideration. Stauffer, through its participation in American Chemical Corporation, had already developed a commercial process for producing vinyl chloride monomer.

36. At the time of the establishment of the joint venture, Stauffer was building a polyvinyl chloride resin plant at Delaware City, Delaware, which was expected to consume 60 million pounds of vinyl chloride monomer in its first year of operation. On the basis of an inquiry into the nature of the market for vinyl chloride monomer, Stauffer personnel firmly maintained that Stauffer could secure enough business to warrant building a vinyl chloride monomer plant with an annual capacity of 300 million pounds. On the basis of Stauffer's projections, a 300 million pound plant would not be large enough to satisfy its requirements after 1970.

37. Continental's acquisition of the Thompson Companies in 1964 provided Continental with an outlet which was estimated would consume more than 200 million pounds of vinyl chloride monomer in 1967, the first year of operation of the Continental-Stauffer joint venture plant.

38. Continental is building an ethylene plant at Lake Charles, Louisiana. The plant, expected to be completed in early 1968, will

have an annual capacity of 500 million pounds of olefins, principally ethylene. Part of the output will be utilized by the vinyl chloride monomer joint venture of Continental and Stauffer, part by Continental's industrial alcohol plant at Lake Charles, Louisiana and part by Calcasieu Chemical Company, a producer of ethylene glycol affiliated with Continental. Continental's interest in constructing an ethylene plant to supply existing ethylene requirements afforded it an additional incentive to build a vinyl chloride monomer plant.

C. Violations Charged

39. The acquisition of certain assets and rights of Stauffer by Continental and of certain assets and rights of Continental by Stauffer through the contract which established and through the establishment of a joint venture for the production of vinyl chloride monomer may substantially lessen competition or tend to create a monopoly in the vinyl chloride monomer and/or polyvinyl chloride resin industries in the United States in violation of Section 7 of the Clayton Act, and the contract and combination between Continental and Stauffer are in unreasonable restraint of trade and commerce and may hinder or have a dangerous tendency to hinder competition unduly in the vinyl chloride monomer and/or polyvinyl chloride resin industries thereby constituting an unfair act or method of competition in commerce in violation of Section 5 of the Federal Trade Commission Act, in that the following effects, among others, may result:

(a) Potential competition in the production and sale of vinyl chloride monomer has been eliminated; but for the joint venture of Continental and Stauffer there is a reasonable probability that both Continental and Stauffer would have separately entered into the production of vinyl chloride monomer; at the least, there is a reasonable probability that one company would have separately entered into the production of vinyl chloride monomer while the other company would have remained a significant potential competitor;

(b) The formation and operation of the joint venture has created inducements and incentives for avoidance of competition between Continental and Stauffer in the production and sale of vinyl chloride monomer, polyvinyl chloride resins and other products which Continental and Stauffer may presently or in the future produce or sell;

(c) Competition generally in the production and sale of vinyl chloride monomer and/or polyvinyl chloride resins may be substantially lessened;

(d) Actual and potential competition in the production and sale of vinyl chloride monomer and polyvinyl chloride resins may be substantially lessened by reason of the heightened barriers to entry resulting from the joint venture;

(e) Already high concentration levels in the production and sale of vinyl chloride monomer and polyvinyl chloride resins may be substantially increased and the possibility of deconcentration lessened; and

(f) Competitors in the petrochemical industry and in other industries may be encouraged to participate in joint ventures as a means of avoiding, lessening, restraining or suppressing competition *inter sese*.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act and Section 7 of the Clayton Act, as amended, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission, having considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of 30 days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Continental Oil Company is a corporation organized and existing under the laws of the State of Delaware, with an office and place of business at 30 Rockefeller Plaza, New York, New York 10020.

Respondent Stauffer Chemical Company is a corporation organized and existing under the laws of the State of Delaware, with

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an office and place of business at 380 Madison Avenue, New York, New York 10017.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

I

It is ordered, That, within ninety (90) days from the start-up of vinyl chloride monomer production or six (6) months from the effective date of this Order, whichever is earlier, (A) Stauffer Chemical Company (hereinafter referred to as "Stauffer") shall sell to Continental Oil Company (hereinafter referred to as "Continental"), and Continental shall purchase from Stauffer, all interests held by Stauffer in or relating to the vinyl chloride monomer manufacturing facility constructed by Continental and Stauffer near Lake Charles, Louisiana, and all assets, rights and other interests obtained by Stauffer pursuant to the Monomer Agreement and Related Agreements effective as of February 1, 1966, and (B) Stauffer and Continental shall terminate said Monomer Agreement and Related Agreements.

II

It is further ordered, That Continental, within two (2) years from the effective date of this Order, divest absolutely and in good faith, to a purchaser or purchasers (such purchaser or purchasers being hereinafter referred to as "Purchaser") approved by the Federal Trade Commission, all assets, properties, rights and privileges, tangible and intangible (subject to any outstanding foreign licenses), including, but not limited to, all plants, machinery, equipment, patents, patent rights, know-how and technology, trade names, trademarks, customer lists and good will acquired by Continental as a result of its acquisition of the stock of Thompson Chemical Company and Apex Tire and Rubber Company and of certain real estate utilized by these companies and owned by Hay Realty Corporation, together with all additions and improvements thereto and replacements thereof; such divestiture shall be in good faith to a Purchaser who, insofar as Continental can reasonably determine, will operate such assets as a going concern and effective competitor in the manufacture and sale of polyvinyl chloride resins and compounds and fabricated products processed from such compounds; that the Purchaser of the divested facilities and Continental enter into a purchase and sale contract

under which Continental will agree to sell and such Purchaser will agree to buy the divested facilities' total needs of vinyl chloride monomer through December 31, 1969, at a price which is reasonable and in no event less favorable than that then being offered by Continental to, or received by Continental from, any other customer; and that the Purchaser of the divested facilities grant to Continental a nonexclusive, royalty-free license, with the right to sublicense outside the United States, under all patents, patent rights, know-how and technology acquired by said Purchaser from Continental pursuant to this Order which relate to polyvinyl chloride resins and compounds, plasticizers and garden hose.

III

It is further ordered, That, if the consideration received for the divestiture required to be made pursuant to this Order is not entirely cash, nothing in this Order shall be deemed to prohibit Continental or any of its subsidiaries from accepting and enforcing a lien, mortgage, pledge, deed of trust or other security interest for the purpose of securing to Continental full payment of the price, with interest, received by Continental in connection with the divestiture; but if after bona fide divestiture including any disposal of any of the assets, in accordance with the provisions of this Order, Continental, by enforcement of such security interest regains direct or indirect ownership or control of any substantial portion of the assets, said ownership or control regained shall be redivested subject to the provisions of this Order, within such reasonable period as is granted by the Commission for this purpose.

IV

It is further ordered, That, pending divestiture or sale, Continental shall not make or permit any deterioration in any of the plants, machinery, buildings, equipment or other property or assets of the companies and/or plants to be divested or sold pursuant to this Order which may impair their present capacity or market value, unless such capacity or value is restored prior to divestiture or sale.

V

It is further ordered, That Continental shall assist any one (1) firm, not engaged in the production of either vinyl chloride monomer or polyvinyl chloride resin, desiring to enter into the production of vinyl chloride monomer in the United States and approved by the Federal Trade Commission, by any portion or all of the following, at the option of such firm:

(A) Within five (5) years from the effective date of this Order, granting (to the extent it is legally free to do so) a nonexclusive license to such firm under any or all patents, patent rights, know-how and technology and any improvements therein relating to the production of vinyl chloride monomer then owned or controlled by Continental at a price and on terms and conditions which are reasonable and in no event less favorable than those granted to any other domestic licensee of Continental, and/or

(B) Entering into and performing a purchase and sale contract with such firm under which Continental will agree to purchase and such firm will agree to supply, for a period of three (3) years from the startup of production by such firm, but in no event beyond December 31, 1977, a quantity of vinyl chloride monomer estimated to be 20% of Continental's needs of vinyl chloride monomer for internal use in each year of said contract period, or such lesser quantity as such firm may specify in the contract, at a competitive price, provided such firm has been approved by the Federal Trade Commission and has notified Continental, within five (5) years from the effective date of this Order, of its intent to sell under this paragraph.

VI

It is further ordered, That Stauffer shall assist any one (1) firm, not engaged in the production of either vinyl chloride monomer or polyvinyl chloride resin, desiring to enter into the production of vinyl chloride monomer in the United States and approved by the Federal Trade Commission, by any portion or all of the following, at the option of such firm, provided Stauffer has not already committed itself in good faith to build a new plant in the United States for the commercial production of vinyl chloride monomer and notified the Commission of its commitment:

(A) Within five (5) years from the effective date of this Order, granting (to the extent it is legally free to do so) a nonexclusive license to such firm under any or all patents, patent rights, know-how and technology and any improvements therein relating to the production of vinyl chloride monomer then owned or controlled by Stauffer at a price and on terms and conditions which are reasonable and in no event less favorable than those granted to any other domestic licensee of Stauffer, and/or

(B) Entering into and performing a purchase and sale contract with such firm under which Stauffer will agree to purchase and such firm will agree to supply, for a period of three (3) years from the startup of production by such firm, but in no event beyond December 31, 1977, a quantity of vinyl chloride monomer estimated to be 20% of Stauffer's total needs of vinyl chloride monomer in each year of said contract period, or such lesser quantity as such firm may specify in the contract, at a competitive price, provided such firm has been approved by the Federal Trade Commission and has notified Stauffer, within five (5) years from the effective date of this Order, of its intent to sell under this paragraph.

VII

It is further ordered, That for a period of five (5) years from the start-up of its vinyl chloride monomer production or from the effective date of this Order, whichever is later, Continental shall make available to producers of polyvinyl chloride who are not also producers of vinyl chloride monomer (by joint venture or otherwise) and who will enter into a contract of at least one (1) year's duration a quantity of vinyl chloride monomer equal to thirty-three and one-third ($33\frac{1}{3}$) percent of Continental's production thereof at a price which is reasonable and in no event less favorable than that then being offered by Continental to any other customer, regardless of the quantity purchased or the duration of the contract (For the purposes of this Order, "offered" shall include the voluntary renewal or extension of a contract by action or inaction on the part of Continental.): *Provided, however,* That if because of its own requirements and contractual commitments with other customers Continental would be required to purchase vinyl chloride monomer in order to satisfy its obligation under this paragraph, Continental shall be obligated to supply vinyl chloride monomer under this paragraph only if and to the extent that it can purchase for resale vinyl chloride monomer, and in such event Continental's resale price shall be determined as provided above in this paragraph but shall not be less than the price actually paid by Continental.

VIII

It is further ordered, That, within ninety (90) days from the effective date of this Order, Stauffer shall grant to Continental a nonexclusive license, on reasonable terms, to Stauffer's vinyl

chloride monomer process, patents, patent rights, know-how and technology.

IX

It is further ordered, That for a period of ten (10) years from the effective date of this Order, Continental shall not acquire, directly or indirectly, through subsidiaries, joint venture or otherwise, the whole or any part of the stock, share capital or assets (other than products, machinery or equipment purchased in the ordinary course of business and nonexclusive licenses under patents, know-how and technology) of any domestic concern engaged in the production or sale of vinyl chloride monomer or production, processing, conversion or sale of any polyvinyl chloride resin, compound or fabricated product (except a domestic concern the business activities of which is polyvinyl chloride are limited to the production and sale of polyvinyl chloride fabricated products and which, in the year prior to Continental's acquisition, had total sales of polyvinyl chloride fabricated products of less than one million dollars (\$1,000,000)), without the prior approval of the Federal Trade Commission.

X

It is further ordered, That for a period of ten (10) years from the effective date of this Order, Stauffer shall not acquire, directly or indirectly, through subsidiaries, joint venture or otherwise, the whole or any part of the stock, share capital or assets (other than products, machinery or equipment purchased in the ordinary course of business and nonexclusive licenses under patents, know-how and technology) of any domestic concern engaged in the production or sale of vinyl chloride monomer, without the prior approval of the Federal Trade Commission.

XI

It is further ordered, That in the event Continental, despite bona fide efforts to do so, is unable to divest as required by this Order within the specified time, Continental may apply to the Commission at such time for relief from such obligation; and the Commission may issue such order as it deems appropriate regarding such obligation.

XII

It is further ordered, That:

- (A) Within twenty (20) days from the sale to Continental of Stauffer's interests in the vinyl chloride monomer manu-

facturing facility, Continental and Stauffer shall each report in writing to the Federal Trade Commission their compliance with paragraphs I and VIII of this Order;

(B) Within sixty (60) days from the effective date of this Order, and every sixty (60) days thereafter until the divestiture required by paragraph II of this Order has been completed, Continental shall report in writing to the Federal Trade Commission its plans for effecting such divestiture and the action it has taken in implementation thereof, including, (i) the name, address and official capacity of the individual or individuals designated to carry out such divestiture and to negotiate with interested parties, (ii) a brochure, presentation or other writing containing all of the essential information necessary to permit an interested party to evaluate the facilities to be divested, (iii) a summary of any efforts made and to be made in advertising and affirmatively announcing the availability of the facilities to be divested, (iv) the particular efforts made to locate and interest prospective purchasers not previously engaged in the industry, (v) a summary of contacts and negotiations relating to the sale of facilities ordered to be divested, including the identities of all parties expressing interest in the acquisition of any of the facilities to be divested and, subject to any legally recognized privilege, copies of all written communications pertaining to negotiations, offers to buy or indications of interest in the acquisition of the whole or any part of the facilities to be divested and (vi) copies of all agreements and forms of agreement relating directly or indirectly to the proposed sale of the facilities to be divested;

(C) Within sixty (60) days from the effective date of this Order and every six (6) months thereafter, Continental and Stauffer shall each report in writing to the Federal Trade Commission the steps they have taken to comply with paragraphs V, VI and VII of this Order and any steps taken to inform possible interested parties; and

(D) Within sixty (60) days from the effective date of this Order and annually thereafter, Continental and Stauffer shall each report in writing to the Federal Trade Commission the manner and form in which they intend to comply, are complying or have complied with paragraphs IX and X of this Order.

IN THE MATTER OF

THE J. B. WILLIAMS COMPANY, INC., ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL
TRADE COMMISSION ACT*Docket 8547. Complaint, Dec. 7, 1962—Decision, Nov. 24, 1967*

Order modifying, pursuant to a final decree of the U.S. Court of Appeals, Sixth Circuit, 381 F. 2d 884 (1967) (8 S.&D. 524), a cease and desist order, 68 F.T.C. 481, issued September 28, 1965, against a New York City drug manufacturer by eliminating from paragraph 1(f) of the order the provision prohibiting representations that the presence of iron deficiency anemia can be self-diagnosed or can be determined without a medical test conducted by a physician.

MODIFIED ORDER TO CEASE AND DESIST

Respondents having filed in the United States Court of Appeals for the Sixth Circuit a petition to review and set aside the order to cease and desist issued herein on September 28, 1965 [68 F.T.C. 481]; and the court on August 11, 1967 [8 S. & D. 524], having rendered its decision and entered its final decree affirming and enforcing said order to cease and desist except for paragraph 1(f) of the order; and the time allowed for filing a petition for certiorari having expired and no such petition having been filed;

Now, therefore, it is hereby ordered, That in accordance with the said final decree of the court of appeals, said order to cease and desist be, and it hereby is, modified to read as follows:

It is ordered, That respondents, The J. B. Williams Company, Inc., a corporation, and Parkson Advertising Agency, Inc., a corporation, and their officers, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the preparation designated Geritol Liquid or the preparation designated Geritol Tablets, or any other preparation of substantially similar composition or possessing substantially similar properties, under whatever name or names sold, do forthwith cease and desist from:

1. Disseminating or causing to be disseminated by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement:

- (a) Which represents directly or by implication and without qualification that the preparation is an