

Amended Complaint

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IN THE MATTER OF

LEHIGH PORTLAND CEMENT COMPANY

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

Docket 8680. Amended Complaint, April 24, 1967—Decision, June 7, 1972

Consent order requiring the third largest manufacturer of portland cement with headquarters in Allentown, Pa., to divest itself of 11 plants in Virginia, 6 plants in Florida, and 22 once acquired, but no longer owned, plants in Florida, Kentucky and Virginia, if respondent regains ownership or control. As for the ready-mixed concrete plants the order requires that they be kept in operating condition prior to divestiture, that respondent not add other ready-mixed concrete plants for two years in any county where acquired plants are to be divested. The order also prohibits acquisition of other ready-mixed concrete and concrete product industries for a period of 10 years without prior Federal Trade Commission approval.

AMENDED COMPLAINT

The Federal Trade Commission, having reason to believe that the above-named respondent has violated the provisions of Section 7 of the Clayton Act, as amended, and Section 5 of the Federal Trade Commission Act, 15 U.S.C. §§ 18, 45, and that a proceeding in respect thereof would be in the public interest, issues this amended complaint, stating its charges as follows:

I DEFINITIONS

1. For the purpose of this complaint the following definitions shall apply:

a. "Portland cement" includes Types I through V of portland cement as specified by the American Society for Testing Materials. Neither masonry nor white cement is included.

b. "Ready-mixed concrete" includes all portland cement concrete which is manufactured and delivered to a purchaser in a plastic and unhardened state. Ready-mixed concrete includes central-mixed concrete, shrink-mixed concrete and transit-mixed concrete.

c. "The Miami Area" consists of Dade County, Broward County and Palm Beach County, Florida.

d. "The Orlando Area" consists of Orange, Brevard and Seminole Counties, Florida.

e. "The Jacksonville Area" consists of Duval County, Florida.

f. "The Louisville Area" consists of Jefferson County, Kentucky, and Clark and Floyd Counties, Indiana.

g. "The Lexington Area" consists of Fayette County, Kentucky.

h. "The Washington Area" consists of District of Columbia, Arlington and Fairfax Counties, Virginia and city of Alexandria, Virginia and Montgomery and Prince Georges Counties, Maryland.

II LEHIGH PORTLAND CEMENT COMPANY

2. Lehigh Portland Cement Company, hereinafter referred to as "Lehigh," is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania with its principal offices located at Allentown, Pennsylvania.

3. Lehigh, the third largest portland cement manufacturing company in the United States, operates thirteen portland cement manufacturing plants and sixteen distribution terminals located in seventeen different states. In 1964, Lehigh had sales of approximately \$83 million, assets of about \$161 million, and net income of about \$6 million.

4. In the State of Florida, Lehigh operates portland cement manufacturing plants at Bunnell (near Jacksonville), and Miami. The total shipments of portland cement from these two plants, in 1964, amounted to approximately 1,402,564 barrels, and 1,647,202 respectively. The Jacksonville area and the Orlando area are important metropolitan markets, accounting for 22 percent and 15 percent respectively of the total shipments from the Bunnell plant. Approximately 48 percent of the total shipments of the Miami plant were shipped to customers located in the Miami area.

5. In the State of Indiana, Lehigh operates one portland cement manufacturing plant at Mitchell. The total annual capacity of this plant is approximately 2.7 million barrels. The Louisville and Lexington, Kentucky Areas are important metropolitan markets for Lehigh's Mitchell plant.

6. In the State of Virginia, Lehigh operates a portland cement plant at Fordwick and in the State of Maryland, Lehigh operates a portland cement plant at Union Bridge. The total annual capacity of these two plants is approximately 5.14 million barrels. The Washington area is an important metropolitan market for Lehigh.

7. Lehigh is and for many years has been engaged in the shipment of portland cement across state lines. Lehigh is engaged in commerce, as "commerce" is defined in the Clayton and Federal Trade Commission Acts.

III. MATERIALS SERVICE CORP. AND ABC CONCRETE CO.

8. Materials Service Corp., hereinafter referred to as "Materials Service," was a corporation organized and existing under the laws

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of the State of Florida, with its principal office and place of business located at 1707 N. Orange Blossom Trl., Orlando, Florida. ABC Concrete Co., hereinafter referred to as "ABC," was a division of Materials Service with its principal office and place of business located at 57 S. Edgewood Ave., Jacksonville, Florida.

9. At the time of its acquisition by Lehigh, Materials Service (and its ABC Division) were engaged in the production and sale of ready-mixed concrete in the Orlando and Jacksonville areas, respectively, operating from five to seven ready-mixed concrete plants. Materials Service and ABC were substantial consumers of portland cement.

10. Materials Service was, at the time of the acquisition, engaged in commerce, as "commerce" is defined in the Clayton and Federal Trade Commission Acts.

IV. THE ACQUISITION OF MATERIALS SERVICE CORP.

11. During the month of July 1965, Lehigh acquired the stock or assets of Materials Service. The acquisition of Materials Service by Lehigh was an act or practice in commerce within the meaning of the Federal Trade Commission Act.

V ACME CONCRETE CO.

12. Acme Concrete Co., hereinafter referred to as "Acme," was a corporation organized and existing under the laws of the State of Florida, with its principal office and place of business located at 5700 N.W. 37 Avenue, Miami, Florida.

13. At the time of the acquisition by Lehigh, Acme was engaged in the production and sale of ready-mixed concrete in the Miami Area, operating about seven ready-mixed concrete plants. Acme was a substantial consumer of portland cement.

14. Acme was, at the time of the acquisition, engaged in commerce, as "commerce" is defined in the Clayton and Federal Trade Commission Acts.

VI THE ACQUISITION OF ACME CONCRETE CO.

15. During the month of July, 1965, Lehigh acquired the stock or assets of Acme. The acquisition of Acme by Lehigh was an act or practice in commerce within the meaning of the Federal Trade Commission Act.

VII FALLS CITY CONCRETE & STONE COMPANY, INC.

16. Falls City Concrete & Stone Company, Inc., hereinafter referred to as "Falls City," was a corporation organized and existing under the

laws of the State of Kentucky, with its principal office and place of business located at Fern Creek, Kentucky.

17. At the time of its acquisition by Lehigh, Falls City was engaged in the production and sale of ready-mixed concrete in the cities of Louisville, Lexington and Frankfort, Kentucky and surrounding towns. Falls City was a substantial consumer of portland cement.

18. Falls City was, at the time of its acquisition, engaged in commerce, as "commerce" is defined in the Clayton and Federal Trade Commission Acts.

VIII ACQUISITION OF FALLS CITY CONCRETE & STONE COMPANY, INC.

19. On January 7, 1966, Lehigh acquired one hundred per cent of the outstanding common stock of Falls City. The acquisition of Falls City by Lehigh was an act or practice in commerce within the meaning of the Federal Trade Commission Act.

IX VIRGINIA CONCRETE CO., INC.

20. Virginia Concrete Co., Inc., hereinafter referred to as "Virginia Concrete," was a corporation organized and existing under the laws of the State of Virginia, with its principal office and place of business located at Shirley Highway & Edsall Road, Springfield, Virginia.

21. At the time of its acquisition by Lehigh, Virginia Concrete was engaged in the production and sale of ready-mixed concrete in the Washington Area, operating nine ready-mixed concrete plants. Virginia Concrete is one of the four largest producers of ready-mixed concrete and one of the four largest consumers of portland cement in the Washington area.

22. Virginia Concrete was, at the time of the acquisition, engaged in commerce, as "commerce" is defined in the Clayton and Federal Trade Commission Acts.

X THE ACQUISITION OF VIRGINIA CONCRETE CO., INC.

23. On or about July 23, 1965, Lehigh acquired the stock or assets of Virginia Concrete. The acquisition of Virginia Concrete by Lehigh was an act or practice in commerce within the meaning of the Federal Trade Commission Act.

X-A THE ACQUISITION OF CEMENT BLOCK INDUSTRIES OF MIAMI, INC.

Sometime after July in 1965, Lehigh acquired the stock or assets, or both the stock and assets of Cement Block Industries of Miami, Inc., hereinafter referred to as "CBI." The acquisition of CBI by Lehigh was an act or practice in commerce within the meaning of the Federal Trade Commission Act.

CBI was a corporation organized and existing under the laws of the State of Florida, with its principal office and place of business located at 4490 S.W. 74th Avenue, Miami, Florida.

At the time of its acquisition by Lehigh, CBI and its affiliates were engaged in the production and sale of ready-mixed concrete, cement blocks, and masonry materials in the greater Miami area, operating a ready-mixed concrete plant there. CBI was a substantial consumer of portland cement.

CBI, at the time of the acquisition, was engaged in commerce, as "commerce" is defined in the Clayton and Federal Trade Commission Acts.

XI NATURE OF TRADE AND COMMERCE

24. Portland cement is a material which in the presence of water, binds aggregates, such as sand and gravel, into concrete. Portland cement is an essential ingredient in the production of ready-mixed concrete. There is no practical substitute for portland cement in the production of concrete.

25. The portland cement industry in the United States is substantial. In 1964, there were about 52 cement companies in the United States operating approximately 181 plants. Total shipments of portland cement in that year amounted to approximately 365 million barrels, valued at about \$1.1 billion.

26. Cement manufacturers sell their portland cement to consumers such as ready-mixed concrete companies, concrete products companies, and to contractors and building materials dealers. However, on a national basis, approximately 57 percent of all portland cement is shipped to firms engaged in the production and sale of ready-mixed concrete.

27. In recent years, there has been a significant trend of mergers and acquisitions by which ready-mixed concrete companies in major metropolitan markets in various portions of the United States have become integrated with portland cement companies. Since 1959, there have been at least 35 such acquisitions.

28. The acquisition of ABC is the second acquisition of a substantial portland cement consumer by a portland cement manufacturer in the Jacksonville Area since 1962.

29. Each vertical merger or acquisition which occurs in the portland cement industry potentially forecloses competing cement manufacturers from a segment of the market otherwise open to them and places great pressure on competing manufacturers likewise to acquire portland cement consumers in order to protect their markets. Thus, each such vertical acquisition may form an integral part of a

chain reaction of such acquisitions—contributing both to the share of the market already foreclosed, and to the impetus for further such acquisitions.

XII VIOLATIONS CHARGED

30. The effect of the acquisition of Materials Service (and its ABC Division) by Lehigh, both in itself and by aggravating the trend of vertical mergers and acquisitions, may be substantially to lessen competition or to tend to create a monopoly in the manufacture and sale of portland cement and ready-mixed concrete in the United States as a whole and various parts thereof, including the State of Florida, the Orlando area, and the Jacksonville area, in the following ways, among others:

a. Lehigh's competitors may have been and/or may be foreclosed from a substantial segment of the market for portland cement.

b. The ability of Lehigh's non-integrated competitors effectively to compete in the sale of portland cement and ready-mixed concrete has been and/or may be substantially impaired.

c. The entry of new portland cement and ready-mixed concrete competitors may have been and/or may be inhibited or prevented.

d. The production and sale of ready-mixed concrete, now a decentralized, locally-controlled, small business industry, may become concentrated in the hands of a relatively few manufacturers of portland cement.

31. The effect of the acquisition of Acme by Lehigh, both in itself and by aggravating the trend of vertical mergers and acquisitions, may be substantially to lessen competition or to tend to create a monopoly in the manufacture and sale of portland cement and ready-mixed concrete in the United States as a whole and various parts thereof, including the State of Florida and the Miami area, in the following ways, among others:

a. Lehigh's competitors may have been and/or may be foreclosed from a substantial segment of the market for portland cement.

b. The ability of Lehigh's non-integrated competitors effectively to compete in the sale of portland cement and ready-mixed concrete has been and/or may be substantially impaired.

c. The entry of new portland cement and ready-mixed concrete competitors may have been and/or may be inhibited or prevented.

d. The production and sale of ready-mixed concrete, now a decentralized, locally-controlled, small business industry, may become concentrated in the hands of a relatively few manufacturers of portland cement.

32. The effect of the acquisition of Falls City by Lehigh, both in itself and by aggravating the trend of vertical mergers and acquisitions, may be substantially to lessen competition or to tend to create a monopoly in the manufacture and sale of portland cement and ready-mixed concrete in the United States as a whole and various parts thereof, including the State of Kentucky and the Louisville and Lexington areas, in the following ways, among others:

a. Lehigh's competitors may have been and/or may be foreclosed from a substantial segment of the market for portland cement.

b. The ability of Lehigh's non-integrated competitors effectively to compete in the sale of portland cement and ready-mixed concrete has been and/or may be substantially impaired.

c. The entry of new portland cement and ready-mixed concrete competitors may have been and/or may be inhibited or prevented.

d. The production and sale of ready-mixed concrete, now a decentralized, locally-controlled, small business industry, may become concentrated in the hands of a relatively few manufacturers of portland cement.

33. The effect of the acquisition of Virginia Concrete by Lehigh, both in itself and by aggravating the trend of vertical mergers and acquisitions, may be substantially to lessen competition or to tend to create a monopoly in the manufacture and sale of portland cement and ready-mixed concrete in the United States as a whole and various parts thereof, including the States of Maryland and Virginia, the District of Columbia and the Washington area, in the following ways, among others:

a. Lehigh's competitors may have been and/or may be foreclosed from a substantial segment of the market for portland cement.

b. The ability of Lehigh's non-integrated competitors effectively to compete in the sale of portland cement and ready-mixed concrete has been and/or may be substantially impaired.

c. The entry of new portland cement and ready-mixed concrete competitors may have been and/or may be inhibited or prevented.

d. The production and sale of ready-mixed concrete, now a decentralized, locally-controlled, small business industry, may become concentrated in the hands of a relatively few manufacturers of portland cement.

34. The effect of the acquisition of CBI by Lehigh, both in itself and by aggravating the trend of vertical mergers and acquisitions, may be substantially to lessen competition or to tend to create a monopoly in the manufacture and sale of portland cement and ready-mixed concrete in the United States as a whole and various parts

thereof, including the State of Florida and the Miami area, in the following ways, among others:

a. Lehigh's competitors may have been and/or may be foreclosed from a substantial segment of the market for portland cement.

b. The ability of Lehigh's non-integrated competitors effectively to compete in the sale of portland cement and ready-mixed concrete has been and/or may be substantially impaired.

c. The entry of new portland cement and ready-mixed concrete competitors may have been and/or may be inhibited or prevented.

d. The production and sale of ready-mixed concrete, now a decentralized, locally-controlled, small business industry, may become concentrated in the hands of a relatively few manufacturers of portland cement.

Now, therefore, The acquisitions of Materials Service, Acme, Falls City, Cement Block Industries, and Virginia Concrete are in violation of Section 7 of the Clayton Act, as amended, and constitute unfair acts or practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated a complaint charging that the respondent named in the caption hereof has violated the provisions of Section 7 of the Clayton Act, as amended, and Section 5 of the Federal Trade Commission Act, 15 U.S.C. 18, 45; and

The Commission, by order issued November 26, 1971, having withdrawn this matter from adjudication pursuant to Section 2.34(d) of its rules; and

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

The Commission having thereafter given careful consideration to the executed consent agreement and having determined that the relief provided by the order contained therein is adequate and appropriate in all respects to dispose of this matter, and having thereupon provisionally accepted the executed consent agreement and

placed such agreement on the public record for a period of thirty (30) days, and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its rules, and having determined on the basis of such comments that Paragraph VIII of the provisionally accepted consent order should be modified, and respondent having agreed to such modification, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Lehigh Portland Cement Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 718 Hamilton Street, Allentown, Pennsylvania.

2. The Federal Trade Commission has jurisdiction of this proceeding and of the respondent and the proceeding is in the public interest.

ORDER

I

It is ordered, That should respondent regain ownership or control of any ready-mixed concrete plant at the below listed locations which were acquired by respondent as a result of its acquisitions of Fall City Concrete & Stone Co., Inc.; Materials Service Corporation; Acme Concrete Corp.; Virginia Concrete Company, Incorporated; or of respondent's own construction, and which respondent no longer owns, such ownership or control shall be divested as provided in Paragraph V herein:

South Jacksonville, Duval County, Florida
West Jacksonville, Duval County, Florida
South Bayard, Duval County, Florida
Pine Castle, Orange County, Florida
Orange Blossom Trail, Orange County, Florida
Maitland, Seminole County, Florida
Titusville, Brevard County, Florida
Cocoa, Brevard County, Florida
Cocoa Beach, Brevard County, Florida
Merritt Island, Brevard County, Florida
Eau Gallie, Brevard County, Florida
Hialeah, Dade County, Florida
Hypoluxo, Broward County, Florida
Versailles, Woodford County, Kentucky
Prospect, Jefferson County, Kentucky

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Fern Creek, Jefferson County, Kentucky
 Outer Loop, Jefferson County, Kentucky
 Frankfort, Franklin County, Kentucky
 Lexington, Fayette County, Kentucky
 Newington, Fairfax County, Virginia
 Telegraph Road, city of Alexandria, Virginia
 Van Dorn Street, Fairfax County, Virginia

II

It is further ordered. That respondent Lehigh Portland Cement Company and its officers, directors, agents, representatives, employees, subsidiaries, affiliates, successors and assigns, within forty-eight months from the date this order is accepted by the Federal Trade Commission, shall divest, absolutely, subject to the approval of the Federal Trade Commission, the following ready-mixed concrete plants located in the State of Virginia and acquired by respondent as a result of its acquisition of Virginia Concrete Company, Incorporated or of respondent's own construction, together with such land on which they are located and all equipment and trucks, or their normal replacements, as are used for such plants to operate as producers, sellers and distributors of ready-mixed concrete as of the date this order is accepted by the Federal Trade Commission:

Woodbridge, Prince William County
 Gainesville, Prince William County ¹
 Manassas, Prince William County ²
 Chantilly, Loudon County ¹
 Sterling, Loudon County
 Fairfax Station, Fairfax County
 Edsall Road, Fairfax County ³
 Vienna, Fairfax County
 Falls Church, Fairfax County
 S. Strand Street, city of Alexandria ²
 S. Shirlington Road, Arlington County

III

A. It is further ordered. That respondent Lehigh Portland Cement Company and its officers, directors, agents, representatives, employees,

¹ These plants were not operated in 1970. While respondent would divest the plants and equipment located at these sites, no trucks are used in connection with the plants and are therefore not available for divestiture.

² These plants are located on leased land and respondent will assign its interest in such land insofar as possible.

³ At this location, respondent shall have the option of providing leased land on which the plant is located.

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subsidiaries, affiliates, successors and assigns, within forty-eight months from the date this order is accepted by the Federal Trade Commission, shall divest, absolutely, subject to the approval of the Federal Trade Commission, the following ready-mixed concrete plants located in the State of Florida and acquired by respondent as a result of its acquisitions of Materials Service Corporation and Acme Concrete Corp. or of respondent's own construction, together with such land on which they are located and all equipment and trucks, or their normal replacements, as are used for such plants to operate as producers, sellers and distributors of ready-mixed concrete as of the date this order is accepted by the Federal Trade Commission:

Daytona, Volusia County
Indian River City, Brevard County ⁴
Pompano Beach, Broward County
South Miami, Dade County ⁵
Fort Lauderdale, Broward County
North Miami, Dade County

B. Notwithstanding the requirements of Paragraph III(a) and in lieu of the divestiture required therein, respondent may elect, within two years from the date this order is accepted by the Federal Trade Commission, to divest, subject to the approval of the Federal Trade Commission, the portland cement manufacturing plant owned by respondent and located in Dade County, Florida, together with respondent's distribution terminal facilities located in the State of Florida; *Provided, however*, That such divestitures may be made singly or in a group, and, *Further provided*, That if the respondent, notwithstanding good faith efforts to divest, shall be unable to divest its terminal located at Orlando, Florida within 2 years after divestiture of its cement plant, respondent may retain such terminal for its own use. The election in accordance with this Paragraph III(b) shall be accomplished by a formal written notification to the Federal Trade Commission, and once made, will be irrevocable. Divestiture in accordance with this Paragraph III(b) shall be accomplished within thirty-six months from the date the notification of election is made to the Federal Trade Commission. In the event respondent elects to divest such cement plant, the provisions of Paragraph VI, VII, VIII, and IX herein shall not thereafter be deemed applicable insofar as they relate to the State of Florida.

⁴ This plant was not operated in 1970. While respondent would divest the plant and equipment located at this site, no trucks are used in connection with this plant and are therefore not available for divestiture.

⁵ This plant is located on leased land and respondent will assign its interest insofar as possible.

IV

It is further ordered, That, in the aforesaid divestitures, none of the stock and/or assets be sold or transferred, directly or indirectly, to any person who is at the time of divestiture an officer, director, employee, or agent of, or under the control or direction of, Lehigh or any of its subsidiaries or affiliates, or to any person who owns or controls, directly or indirectly, more than one (1) percent of the outstanding shares of common stock of Lehigh or any of its subsidiaries or affiliates.

V

It is further ordered, That with respect to the divestitures provided in Paragraphs II and III herein, nothing in this order shall be deemed to prohibit respondent from accepting consideration which is not entirely cash and from accepting and enforcing a loan, mortgage, pledge, deed of trust or other security interest for the purpose of securing to respondent full payment of the price, with interest, received by respondent in connection with such divestitures; *Provided however*, That should respondent by enforcement of such security interest, or for any other reason, regain direct or indirect ownership or control of any of the divested plants, land, and equipment, said ownership or control shall be redinvested subject to the provisions of this order, within such reasonable period as is granted by the Federal Trade Commission for this purpose, but in no event in excess of one year from the date of reacquisition.

VI

It is further ordered, That pending divestiture, respondent shall not make any changes in the plants specified in Paragraph II and III(a) herein or in the trucks and other equipment presently used by them which shall impair their present capacity for the production, sale and distribution of ready-mixed concrete or their market value.

VII

It is further ordered, That for a period of two years from the date of divestiture of any ready-mixed concrete plant or group of plants described in Paragraph II and III(a) herein, respondent shall not sell or deliver ready mixed concrete within a distance of six miles of the divested plant or group of plants; *Provided, however*, That this Paragraph shall not be applicable to those plants in Dade County, Florida known as the North Miami and South Miami plants.

VIII

It is further ordered, That either (1) for a period of two years from the date of divestiture of any ready-mixed concrete plant or group of plants described in Paragraphs II and III(a) herein, or (2) for so long as respondent retains a bona fide lien, mortgage, deed of trust, or other security interest in any such plant or group of plants divested for the purposes of securing payment of the price at which said plant or group of plants were transferred, whichever is longer, respondent may provide no more portland cement to that plant or group of plants than an amount, in barrels, equal to seventy-five (75) percent of the portland cement consumed by that plant or group of plants during the calendar year immediately preceding that in which divestiture is made: *Provided however*, That this provision may be waived in regard to a particular purchaser should the Commission find upon the application of the purchaser that such a restriction would not be in the public interest. Such determination shall be solely at the discretion of the Commission.

IX

It is further ordered, That respondent shall not install or operate any additional ready-mixed concrete plants in any county where acquired plants are to be divested for a period beginning with the date this order is accepted by the Federal Trade Commission and continuing until two years from the date of divestiture of the last plant required to be divested in that county; *Provided however*, That this provision may be waived in regard to a particular county should the Commission find upon a showing of changed competitive circumstances that such a restriction would not be in the public interest. Such determination shall be solely at the discretion of the Commission.

X

It is further ordered, That in the event the respondent elects to divest the cement plant and distribution terminals pursuant to Paragraph III(b) of this order, respondent shall not install or operate any additional cement plants in the State of Florida for a period beginning with the date this order is accepted by the Federal Trade Commission and continuing until two years from the date of the divestiture required by Paragraph III(b) of this order.

XI

It is further ordered, That commencing upon the date this order is accepted by the Commission and continuing for a period of ten years from and after the date of completing the divestiture required by this order, respondent shall cease and desist from acquiring, directly or indirectly, without prior approval of the Federal Trade Commission, the whole or any part of the stock, share capital or any interest in any domestic concern which in any of the five years preceding the proposed acquisition was either engaged in the production or sale of ready-mixed concrete or concrete products within respondent's marketing area for portland cement at the time of such proposed acquisition, or purchased in excess of 50,000 barrels of portland cement within such marketing area, or of any capital assets of such domestic concern pertaining to such concrete production or sale or cement purchases.

XII

It is further ordered, That respondent within sixty (60) days from the date of service of this order, and every one hundred (180) days thereafter, or at such other times as may be required but not more frequently than ninety (90) days, until it has fully complied with the provisions of this order, shall submit in writing to the Commission a report setting forth in detail the manner and form in which it intends to comply, is complying, and/or has complied with this order. All compliance reports shall include, among other things which may from time to time be required, a summary of all contacts and negotiations with all persons who are contacted by or who express to respondent a possible interest in acquiring ownership or control over the assets, properties, rights or privileges to be divested under this order, the identity of all such persons, copies of any proposed or executed sales contracts, copies of any internal corporate documents discussing such divestiture, and copies of all written communications from and to such potential purchasers.

Respondent shall also submit to the Commission within ninety (90) days of the close of each calendar year a full report of all facts required by the Commission to determine whether respondent is complying with Paragraphs VII, VIII and XI of this order.

XIII

It is further ordered, That respondent notify the Commission at plying with Paragraphs VII, VIII and XI of this order.

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rate respondent which may affect compliance obligations arising out of the order, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries, and that this order shall be binding on any such successor.

XIV

It is further ordered, That respondent provide a copy of this