

IN THE MATTER OF
DIXILYN CORPORATION

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT AND SEC. 8 OF THE
CLAYTON ACT

Docket C-2690. Complaint, July 17, 1975-Decision, July 17, 1975

Consent order requiring a Houston, Tex., energy company, among other things to cease permitting any individual to serve on its board of directors if such individual is or would be at the same time a director of Austral Oil Company, Inc.

Appearances

For the Commission: *Kenneth A. Rutherford.*

For the respondent: *William T. Lifland, Cahill, Gordon, & Reindel,*
New York City.

COMPLAINT

The Federal Trade Commission, having reason to believe that the above named respondents have violated the provisions of Section 8 of the Clayton Act, as amended, and Section 5 of the Federal Trade Commission Act, and that a proceeding in respect thereof would be in the interest of the public, issues this complaint, stating its charges as follows:

PARAGRAPH 1. Respondent Dixilyn Corporation (Dixilyn) is a corporation organized and existing under and by virtue of the laws of the State of Delaware, maintaining its principal place of business at 1012 First City National Bank Bldg., Houston, Tex. At all times relevant to this complaint, Dixilyn had capital, surplus, and undivided profits aggregating in excess of \$1 million. In 1973 Dixilyn had revenues of approximately \$12 million.

PAR. 2. Respondent Austral Oil Company, Inc. (Austral) is a corporation organized and existing under and by virtue of the laws of

the State of Delaware, maintaining its principal place of business at 2700 Exxon Bldg., Houston, Tex. At all times relevant to this complaint, Austral had capital, surplus, and undivided profits aggregating in excess of \$2 million. In 1972 it had revenues of approximately \$12 million.

PAR. 3. In 1974 and for some years previously, Mr. Willard M. Johnson served simultaneously as a director of Austral and Dixilyn. On or about Aug. 26, 1974, he resigned from Austral's board of directors having been notified of the Commission's intention to issue a complaint in this matter.

PAR. 4. The business of respondents Dixilyn and Austral encompasses, but is not limited to, exploration, production, and sale of crude petroleum and natural gas.

PAR. 5. (a) Dixilyn and Austral by the nature of their business and location of operation are competitors of each other with respect to the exploration, production, or sale of crude petroleum and natural gas.

(b) The elimination of competition by agreement or otherwise between Dixilyn and Austral would hinder, foreclose, and restrain competition or tend to create a monopoly in the exploration, production, or sale of crude petroleum and natural gas.

PAR. 6. (a) The activities referred to in Paragraph Four are performed by corporate respondents in various States of the United States and products of those services are sold and distributed in many other States of the United States.

(b) Dixilyn Corporation and Austral Oil Company each engages in commerce as that term is defined in the Clayton Act and the Federal Trade Commission Act.

PAR. 7. The director interlock, as hereinabove alleged, constitutes a violation of Section 8 of the Clayton Act and Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereto with violation of the Federal Trade Commission Act, and the respondent 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 respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent 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

respondent 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 provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days, and having duly considered the comment filed thereafter pursuant to Section 2.34(b) of its rules, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, in the form contemplated by said agreement, makes the following jurisdictional finding, and enters the following order:

1. Respondent, Dixilyn Corporation, (Dixilyn), is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 1012 First City National Bank Bldg., Houston, Tex.

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

ORDER

I

It is ordered, That Dixilyn Corporation (Dixilyn), its successors and assigns, do forthwith cease and desist from permitting any individual to serve on its board of directors if such individual is or would be at the same time a director of Austral Oil Company.

II

It is further ordered, That Dixilyn shall, within thirty days after service of this order, and annually for a period ending five (5) years thereafter, request from each member of its board of directors a written statement which discloses the name, business, and location of operations of each other corporation of which such member is also a director, exclusive of any corporation in which Dixilyn controls, directly or indirectly through subsidiaries, more than 50 percent of the voting stock; exclusive of any corporation which derives annual gross revenues of less than \$1 million from the exploration, production and sale of natural gas and crude petroleum; and exclusive of any corporation not engaged in "commerce" as defined in Section 1 of the Clayton Act as amended or Section 4 of the Federal Trade Commission Act.

III

It is further ordered, That for a period ending five (5) years after service of this order, Dixilyn shall, at least thirty (30) days prior to any directors' meeting at which one or more directors will be elected or the mailing of proxy statements for any shareholder meeting at which one or more directors will be elected, request from each person who is being considered as a member of the board of directors, but has not been a member of the board of directors during the previous year, a written statement which discloses the information described in Paragraph II.

IV

It is further ordered, That for a period ending five (5) years after service of this order, Dixilyn shall not permit on its board of directors any person who fails to submit a written statement pursuant to Paragraphs II and III or any person who is a director of another corporation named in response to the statements required pursuant to Paragraphs II and III when said statement reveals or when a reasonably diligent investigation would reveal to respondent that such other corporation is a competitor of Dixilyn by virtue of its business and location of operation in the exploration, production or sale of crude petroleum or natural gas. If compliance with Paragraphs I and IV requires any member of Dixilyn's board of directors to resign or to be removed from the board of directors of either Dixilyn or such other corporation, Dixilyn shall be allowed a reasonable period of time within which to take any legal or other steps which are necessary to secure compliance with this order.

V

It is further ordered, That Dixilyn notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent which may affect compliance obligations arising out of this order, such changes to include, but not be limited to, dissolution, assignment or sale resulting in the emergence of a successor corporation.

VI

It is further ordered, That respondent Dixilyn shall, within thirty (30) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order, and shall within sixty (60) days submit

Complaint

86 F.T.C.

copies of those lists provided by all current directors of Dixilyn pursuant to Paragraphs II and III designating all other corporations of which they are directors.
