soon as is practicable, but in no circumstance later than July 15, 2013.

By the Commission.

AEA INVESTORS 2006 FUND L.P., HHI HOLDING CORPORATION, AND HOUGHTON INTERNATIONAL, INC.

Docket No. C-4297. Order, April 30, 2013

Order reopening and setting aside the consent order with respect to AEA Investors 2006 Fund L.P. ("AEA"), in light of the fact that AEA sold its interest in the assets that raised the competitive concerns addressed by the consent order.

ORDER REOPENING AND MODIFYING FINAL ORDER

AEA Investors 2006 Fund L.P. ("AEA") filed its Petition of Respondent AEA Investors 2006 Fund L.P. to Reopen and Modify Decision and Order ("Petition") in this matter on January 3, 2013. AEA was named as a respondent in the consent order issued by the Commission in *AEA Investors 2006 Fund L.P., et al.*, Docket No. C-4297 ("Order") because at the time it was the ultimate parent entity of HHI Holding Corporation and Houghton International, Inc. AEA has now sold its interest in HHI Holding Corporation and Houghton International, Inc. to Gulf Oil Corporation, and is requesting that the Commission reopen and modify the Order to set it aside as it applies to AEA. HHI and Houghton remain respondents to the Order, and Gulf has become a successor to AEA's obligations under the Order. AEA bases its request to reopen and modify the Order on both changed facts and public interest grounds. For the reasons stated below, the Commission has determined to grant the Petition to reopen and modify the Order as requested.

I. BACKGROUND

Houghton International, Inc. acquired D.A. Stuart Corporation on July 3, 2008, from Wilh. Werhahn KG. Houghton, at the time, was a wholly-owned subsidiary of HHI Holding Corporation, which itself was a subsidiary of AEA Investors 2006 Fund L.P., an investment fund managed by AEA Investors L.P., a private equity investment firm.

At the time of the acquisition, both Houghton and D.A. Stuart produced aluminum hot rolling oil for sale in North America. To resolve the competitive concerns resulting from the acquisition, the Commission ordered Houghton to divest the United States aluminum hot rolling assets that Houghton had acquired from D.A. Stuart to Quaker Chemical Corporation.[1] Because AEA and HHI owned and controlled Houghton at the time, they were also named as respondents in the Commission's complaint and Order. The Commission issued the Order on August 26, 2010, and it terminates on August 26, 2020.

In addition to requiring the divestiture and related provisions, the Order requires the respondents to comply with certain obligations until the Order terminates. These include maintaining the confidentiality of certain sensitive business information and refraining from reverse engineering certain components of the divested products,[2] as well as submitting annual reports and notification of corporate changes.[3] Houghton completed the required divestiture to Quaker on July 16, 2010, and all respondents have complied with the requirements of the Order.

II. AEA'S PETITION

AEA states that, on November 6, 2012, HHI, Houghton's direct parent, entered into a purchase agreement whereby GHG

[1] Order, ¶ II.

[2] Order, ¶IV.

[3] Order, ¶¶ VIII., IX., and X.

Lubricants Holdings Limited, a subsidiary of Gulf Oil Corporation Limited, acquired HHI and Houghton. The parties also complied with the premerger notification requirements of the Hart-Scott-Rodino Act with respect to the proposed acquisition, and were granted early termination of the waiting period on November 29, 2012.[4] The sale to Gulf closed on December 20, 2012, at which time AEA divested its entire interest in Houghton and HHI and "no longer has any interest in any business relating to [aluminum hot rolling oil].[5]

AEA contends that reopening and modification is warranted in light of the sale of its interest in Houghton and HHI to Gulf, which, according to AEA, "is a material and significant changed condition of fact."[6] The Order was issued to remedy the anticompetitive effects in the aluminum hot rolling oil market that resulted from the combination of Houghton and D.A. Stuart. AEA was included as a respondent because it was, at the time, the ultimate parent entity of Houghton and HHI. After the sale to Gulf, Houghton and HHI continue to be bound by the terms of the Order, and Gulf is bound as a successor to AEA. AEA has no remaining interest in Houghton, HHI, or any aluminum hot rolling oil assets. It will thus have no "ability to ensure compliance with the Order by HHI or Houghton, which are directly responsible for the operations of the [aluminum hot rolling oil] business."[7]

III. STANDARD FOR REOPENING AND MODIFYING A FINAL ORDER

A final order may be reopened and modified on the grounds set forth in Section 5(b) of the Federal Trade Commission Act.[8] Section 5(b) provides that the Commission shall reopen an order

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[4] Petition at 3.

[5] *Id.*

[6] Petition at 4.

[7] Petition at 5. AEA also contends that modification is warranted on public interest grounds. *Id.* at 5-6.

[8] 15 U.S.C. § 45(b).

to consider whether it should be modified if the respondent "makes a satisfactory showing that changed conditions of law or fact" so require.[9] A satisfactory showing sufficient to require reopening is made when a request to reopen identifies significant changes in circumstances and shows that the changes eliminate the need for the order or make continued application of it inequitable or harmful to competition.[10] Section 5(b) also provides that the Commission may reopen and modify an order when, although changed circumstances would not require reopening, the Commission determines that the public interest so requires. Respondents are therefore invited in petitions to reopen to show how the public interest warrants the requested modification.[11]

In all instances, whether the request is based on changed conditions or on public interest grounds, respondents' showing must be supported by evidence that is credible and reliable.[12]

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[9] *See also Supplementary Information*, Amendment to the Commission's Rules of Practice § 2.51(b), 16 C.F.R. 2.51(b) (August 15, 2001).

[10] S. Rep. No. 96-500, 96th Cong., 2d Sess. 9 (1979) (significant changes or changes causing unfair disadvantage); *Louisiana-Pacific Corp.*, Docket No. C-2956, Letter to John C. Hart (June 5, 1986), at 4 (unpublished) ("Hart Letter"). *See also United States v. Louisiana-Pacific Corp.*, 967 F.2d 1372, 1376-77 (9th Cir. 1992) ("A decision to reopen does not necessarily entail a decision to modify the Order. Reopening may occur even where the petition itself does not plead facts requiring modification.").

[11] Hart Letter at 5; 16 C.F.R. § 2.51.

[12] In the case of a public interest request, Rule 2.51(b) requires an initial satisfactory showing of how modification would serve the public interest before the Commission determines whether to reopen an order and consider all of the reasons for and against its modification. 16 C.F.R. § 2.51(b). A "satisfactory showing" requires that the requester make a *prima facie* showing of a legitimate public interest reason or reasons justifying relief, and this requirement will not be satisfied if the request is merely conclusory or otherwise fails to set forth by affidavit(s) specific facts demonstrating in detail the reasons why the public interest would be served by the modification. *Id.* A sufficient showing requires the requester to demonstrate, *e.g.,* that there is a more effective or efficient way of achieving the purposes of the order, that the order in whole or part is no longer needed, or that there is some other clear public interest that would be served if the Commission were to grant the requested relief.

Commission Rule 2.51(b) requires a "satisfactory showing" to include affidavits setting forth admissible facts, and that all information and material that the requester wishes the Commission to consider must be contained in the request at the time of filing.[13]

If, after determining that the requester has made the required showing, the Commission decides to reopen the order, the Commission will then consider and balance all of the reasons for and against modification. In no instance does a decision to reopen an order oblige the Commission to modify it,[14] and the burden remains on the requester in all cases to demonstrate why the order should be reopened and modified. The petitioner's burden is not a light one in view of the public interest in repose and the finality of the Commission's orders.[15]

IV. THE ORDER WILL BE REOPENED AND MODIFIED

We agree that changed circumstances warrant reopening and setting aside the Order as to AEA. At the time the Commission issued the Order, AEA was made a party to the complaint and Order because it was the ultimate parent entity of Houghton and HHI and, thus, necessary to assure the compliance of its subsidiaries. AEA no longer has any relationship with Houghton or HHI and can thus exert no influence over them. Houghton and HHI remain respondents to the Order, and Gulf succeeds to AEA's obligations under the Order and will be in a position to assure compliance of its newly-acquired subsidiaries. There is thus no longer any need to require AEA's compliance with the Order.

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[13] 16 C.F.R. § 2.51(b).

[14] *See United States v. Louisiana-Pacific Corp.*, 967 F.2d 1372, 1376-77 (9th Cir. 1992) (reopening and modification are independent determinations).

[15] *See Federated Department Stores, Inc. v. Moitie*, 425 U.S. 394 (1981) (strong public interest considerations support repose and finality).

Accordingly,

IT IS ORDERED that the Order in Docket No. C-4297 be, and it hereby is, reopened; and

IT IS FURTHER ORDERED that the Order be, and it hereby is, modified by setting aside the Order as to AEA Investors 2006 Fund L.P. as of the date of issuance of this order.

By the Commission.

UNIVERSAL HEALTH SERVICES, INC., ET AL.

Docket No. C-4372. Order, May 14, 2013

Letter approving divestiture by Universal Health Services, Inc. of the Peak Behavioral Health Assets to Strategic Behavioral Health, LLC.

LETTER APPROVING APPLICATION FOR DIVESTITURE

Dear Ms. Varney and Ms. Viswanatha:

This letter responds to the Application for Approval of Divestiture of the Peak Behavioral Health Assets ("Application") filed by Universal Health Services, Inc. ("Universal"), on March 14, 2013. The Application requests that the Federal Trade Commission approve, pursuant to the order in this matter, Universal's proposed divestiture of the Peak Behavioral Health Assets to Strategic Behavioral Health, LLC. The Application was placed on the public record for comments until April 29, 2013, and one comment was received.

After consideration of the proposed divestiture as set forth in Universal's Application and supplemental documents, as well as other available information, the Commission has determined to approve the proposed divestiture. In according its approval, the