ANALYSIS OF AGREEMENT CONTAINING CONSENT ORDERS TO AID PUBLIC COMMENT
In the Matter of AEA Investors 2006 Fund L.P., HHI Holding Corporation, and Houghton International, Inc.
File No. 081-0245

I. Introduction

The Federal Trade Commission ("Commission") has accepted for public comment, subject to final approval, an Agreement Containing Consent Order ("Consent Agreement") from AEA Investors 2006 Fund, L.P., HII Holding Corporation, and Houghton International, Inc. ("Houghton"), (collectively "Respondents"). The purpose of the proposed Consent Agreement is to remedy the anticompetitive effects that would otherwise result from Respondents' acquisition of the Aluminum Hot Rolling Oil ("AHRO") business of D.A. Stuart GmbH ("Stuart"). Under the terms of the agreement, Respondents will divest the U.S. AHRO business of Stuart to Quaker Chemical Corporation ("Quaker"). The proposed consent also requires Respondents to divest related intellectual property rights necessary to ensure that Quaker will be able to quickly and fully replicate the competition that would have been eliminated by the acquisition.

The proposed Consent Agreement has been placed on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the proposed Consent Agreement again, and will decide whether it should withdraw from the proposed Consent Agreement or make the accompanying Decision and Order ("Order") final.

On July 3, 2008, Respondents proposed to acquire all outstanding Stuart voting securities. The Commission's complaint alleges that the acquisition by Respondents of Stuart's AHRO business violates Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, by eliminating an actual, direct and substantial competitor from the market for AHRO in North America. The proposed Consent Agreement would remedy the alleged violations by requiring a divestiture that will replace the competition that otherwise would be lost in this market as a result of the acquisition.

II. The Parties

AEA Investors 2006 Fund, L.P., controls HII Holding Corporation, which in turn owns 100 percent of Houghton. Houghton is a specialty chemicals manufacturer and management services provider headquartered in Valley Forge, Pennsylvania. Houghton produces a variety of specialty chemicals in its three United States production facilities, including fluids for metal cutting, fluid power (hydraulics), and metal rolling, including AHRO. Houghton is the largest seller of AHRO in North America.

Stuart was a wholly-owned subsidiary of Wilh. Werhahn KG, a German holding company. Stuart was a metalworking fluids manufacturer and management service provider headquartered in Warrenville, Illinois. Stuart manufactured metalworking fluids, including AHROs, in its Warrenville, Illinois, and Detroit, Michigan, facilities. Prior to the merger, Stuart was the second largest seller of AHRO in North America.

Quaker, the proposed buyer of Stuart's AHRO assets, is a leading global provider of process and specialty chemicals. It also offers chemical management services. Based in Conshohocken, Pennsylvania, Quaker reported total 2007 worldwide revenues of $546 million. Quaker currently holds a very small share of the North American AHRO market.

III. Aluminum Hot Rolling Oil

AHRO is a critical input to an industrial process known as the "hot rolling" of aluminum alloy. Hot rolling creates large coils or plates of flat rolled aluminum stock, which are production inputs for a diverse variety of products such as beverage cans, automobile parts, building products like window frames and rain gutters, as well as a variety of aerospace and defense products.

As the mill operates, AHRO provides both cooling and lubrication to the metal stock. A modern aluminum hot mill must maintain extremely narrow manufacturing tolerances, and the correct AHRO formulation is critical to both the quality of the finished product and the efficient operation of the mill.

The relevant product market is AHRO and associated technical support services. AHRO customers require custom-formulated AHRO designed to reflect the unique specifications of their particular facility and also require their AHRO supplier to provide on-going, high-level technical support. AHRO customers would not switch to lubricants used to roll other metals or to other, unrelated lubricants in the event of a small but significant price increase.

The relevant geographic market is limited to North America. Customers in the U.S. are unlikely to utilize an AHRO supplier without domestic manufacturing and support capabilities. Both Houghton and Stuart maintained separate manufacturing facilities in Europe and Asia as well as in North America and very little product is shipped overseas due to high transportation costs and the long lead times required to transport these products by marine vessel.

The relevant market is highly concentrated, and the acquisition increased market concentration significantly, eliminating substantial and direct competition between the two most significant AHRO producers. The acquisition also resulted in Houghton controlling roughly 75% of the North American market for AHRO.

Evidence of head-to-head competition eliminated by the acquisition supports the anticompetitive implications of such dramatic increases in concentration. Customers benefitted from the rivalry between Houghton and Stuart in the form of lower prices, improved products and better service. Left unremedied, the acquisition likely would cause anticompetitive harm by enabling Houghton to profit by unilaterally raising the prices of AHRO, as well as reducing its incentive to improve quality and provide better service.

New suppliers are unlikely to enter this market to deter or counteract the anticompetitive effects of the acquisition. Quaker tried without much success to enter the North American market for AHRO in the late 1990s, but largely abandoned those efforts. Technological requirements, high customer switching costs and reputation pose substantial barriers to entrants attempting to sell AHRO to North American customers. As a result, new entry sufficient to achieve a significant market impact is unlikely to occur in a timely manner.

IV. THE PROPOSED CONSENT AGREEMENT

The Consent Agreement remedies the anticompetitive effects of the acquisition by requiring the divestiture of Stuart's U.S. AHRO Business to a Commission-Approved Acquirer. Quaker has agreed to purchase this business. Specifically, the proposed Consent Agreement requires divestiture of Stuart's AHRO customer contracts, business information and all of Stuart's AHRO-related intellectual property, including all the formulations and technical information that are necessary to compete independently and effectively. Quaker has also reached employment agreements with all the key Stuart AHRO employees, ensuring that Stuart's existing AHRO capabilities are transferred to Quaker.

The proposed Consent Agreement contains several provisions designed to ensure that the divestiture is successful. First, it requires Houghton to provide transitional services to Quaker or another Commission-approved buyer. These transition services will facilitate a smooth transition of Stuart's U.S. AHRO business to the acquirer, and ensure continued and uninterrupted competition during the transition. Second, if Respondents fail to divest Stuart's U.S. AHRO business to a Commission-approved buyer, the proposed Consent Agreement permits the Commission to appoint a trustee to divest the assets. Third, the proposed Consent agreement requires Respondents to remove any contractual impediments that may deter the former Stuart AHRO employees from accepting employment with the Commission-approved buyer. Fourth, the proposed Consent Agreement permits the Commission to appoint an interim monitor to oversee compliance with the Agreement's provisions. Quaker and Houghton have also entered into a short-term non-compete agreement. This agreement protects Quaker from losing its U.S. AHRO customers to Houghton until after Houghton completes its obligations to provide transitional services to Quaker.

Respondents are required to hold the Stuart U.S. AHRO business separate and apart from Houghton's AHRO business and maintain that business until it can be divested to a Commission-approved acquirer.

V. Opportunity for Public Comment

The Proposed Order has been placed on the public record for thirty days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will review the Proposed Order again and the comments received and will decide whether it should withdraw from the Proposed Order or make it final. By accepting the Proposed Order subject to final approval, the Commission anticipates that the competitive problems alleged in the complaint will be resolved. The purpose of this analysis is to inform and invite public comment on the Proposed Order, including the proposed divestitures, and to aid the Commission in its determination of whether to make the Proposed Order final. This analysis is not intended to constitute an official interpretation of the Proposed Order, nor is it intended to modify the terms of the Proposed Order in any way.