In the Matter of

PACIFIC RESOURCES, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT & SEC. 7 OF THE CLAYTON ACT

Docket 9211. Complaint, Nov. 25, 1987—Decision, Nov. 4, 1988

This consent order prohibits, among other things, Pacific Resources, Inc. ("PRI") from acquiring, without prior Commission approval, any substantial Hawaiian wholesale terminal from a competitor or from entering into any terminalling agreement for more than fifty percent of the capacity of such terminal.

Appearances

For the Commission: *Arthur J. Nolan.*

For the respondent: *John Herfort* and *Stuart D. Karle, Gibson, Dunn & Crutcher,* New York City and *Phillip H. Rudolph, Gibson, Dunn & Crutcher,* Washington, D.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that respondent, Pacific Resources, Inc. ("PRI"), a corporation subject to the jurisdiction of the Federal Trade Commission, has entered into an agreement with Shell Oil Company ("Shell"), described in paragraph 5 herein, that, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45; that said agreement and the actions of the respondent to implement that agreement constitute violations of Section 5 of the FTC Act, 15 U.S.C. 45; and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

I. PACIFIC RESOURCES, INC.

1. Respondent PRI is a corporation organized and existing under the laws of the State of Hawaii, with its principal place of business at 733 Bishop Street, Honolulu, Hawaii.

2. PRI is, and at all times relevant herein has been, engaged in commerce as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. 12, and is a corporation whose business is in or affecting commerce as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. 44.

II. SHELL OIL COMPANY

3. Shell is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at One Shell Plaza, Houston, Texas.

4. Shell is, and at all times relevant herein has been, engaged in commerce as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. 12, and is a corporation whose business is in or affecting commerce as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. 44.

III. THE ACQUISITION

5. On or about March 17, 1987, PRI entered into a purchase agreement with Shell pursuant to which PRI agreed to purchase the petroleum terminalling and distribution assets and operations of Shell in the State of Hawaii. The total value of the proposed transaction is approximately $32 million. On November 6, the United States District Court for the Western District of Washington preliminarily enjoined the proposed transaction. On November 12, 1987, PRI and Shell terminated the acquisition agreement and withdrew their Hart-Scott-Rodino filing.

IV. TRADE AND COMMERCE

A. *Relevant Line of Commerce*

6. Two relevant lines of commerce in which to analyze PRI's acquisition of the Hawaiian assets of Shell Oil Company are the distribution of gasoline and diesel fuel from terminals.

B. *Relevant Section of the Country*

7. The relevant sections of the country are the individual islands of Oahu, Maui, Hawaii, and Kauai in the State of Hawaii.

V. MARKET STRUCTURE

8. Distribution of gasoline and diesel fuel from terminals in each relevant market is extremely concentrated, whether measured by

Herfindahl-Hirschmann Indices ("HHI") or by two-firm and four-firm concentration ratios.

VI. BARRIERS TO ENTRY

9. Entry into the relevant markets set out in paragraphs 6 and 7 herein, is very difficult.

VII. ACTUAL COMPETITION

10. PRI and Shell are actual competitors in the distribution of gasoline from terminals on the island of Oahu. PRI and Shell are actual and potential competitors in the distribution of diesel from terminals on the islands of Oahu and Hawaii.

VIII. POTENTIAL COMPETITION

11. PRI and Shell are potential competitors in the distribution of gasoline from terminals on the islands of Hawaii, Maui and Kauai. PRI and Shell are potential competitors in the distribution of diesel from terminals on the islands of Maui and Kauai.

IX. EFFECT

12. The effect of the proposed acquisition, if consummated, may be substantially to lessen competition in the product markets in relevant sections of the country described above in paragraphs 6 and 7 in violation of Section 7 of the Clayton Act, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, in the following ways, among others:

a. eliminating actual competition between Shell and PRI;
b. eliminating potential competition between Shell and PRI;
c. creating a dominant firm;
d. increasing the degree of vertical integration and thereby the difficulty of entry; and
e. facilitating anticompetitive interdependent conduct, nonrivalrous behavior, collusion, or parallel policies of mutual advantage.

All of the above increase the likelihood that firms in the market will increase prices and decrease the likelihood that they will decrease prices both in the near future and in the long term.

X. VIOLATION CHARGED

13. The acquisition agreement described in paragraph 5 herein

constitutes a violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45.

14. The proposed acquisition described in paragraph 5 herein would, if consummated, violate Section 7 of the Clayton Act as amended, 15 U.S.C. 18.

DECISION AND ORDER

The Commission having heretofore issued its complaint charging respondent Pacific Resources, Inc. ("PRI") with violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and respondent having been served with a copy of that complaint, together with a notice of contemplated relief; and

Respondent PRI, their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by PRI of all jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission 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 Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with Section 3.25(c) of its Rules; and

The Commission having considered the matter and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now, in further conformity with the procedure prescribed in Section 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent PRI is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Hawaii with principal offices at 733 Bishop Street, Honolulu, Hawaii.

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

ORDER

I.

As used in this order, the following definitions shall apply:

(a) *"Exchange agreement"* means any arrangement or transaction or series of arrangements or transactions, other than a terminalling agreement as defined in subparagraph (j) of this paragraph, in which two or more persons or firms reciprocally transfer to each other or their respective consignees or assignees, quantities of petroleum products, without collecting a monetary price, except possibly some monetary accounting or settlement for the difference for differentials between quantity, transportation, storage, or handling of the exchanged products. An exchange agreement also includes a buy-sell arrangement or a purchase-and-sale transaction or any series of transactions or arrangements in which two or more firms or persons, at or about the same time, reciprocally agree to sell to and purchase from each other at some price but pursuant to mutual understanding, that one party's sale to the other is dependent or contingent upon the latter's reciprocal sale to the former.

(b) *"Gasoline station"* means a facility at which retail marketing is or has been conducted. "Gasoline station" does not include a facility that is closed and has not been used to sell gasoline to the public for a year or more.

(c) *"Petroleum products"* means any grade of leaded or unleaded gasoline and diesel fuel #2.

(d) *"Refining"* means converting crude oil into various refined petroleum products such as gasoline, diesel fuel and jet fuel.

(e) *"Refinery"* means a facility that converts crude oil into various refined petroleum products such as gasoline, diesel fuel and jet fuel.

(f) *"Respondent"* means Pacific Resources, Inc. ("PRI"), its predecessors, parent companies, subsidiaries, divisions, groups and affiliates controlled by respondent, and all their respective directors, officers, employees, agents and representatives and all their respective successors and assigns.

(g) *"Retail marketing"* means selling gasoline to the public.

(h) *"Terminal"* means any petroleum product facility in the State of Hawaii, not owned or operated by respondent on the date this order becomes final, that has a total petroleum products storage capacity exceeding 10,000 barrels (42 U.S. gallons per barrel) and that has or

had in the past two (2) years equipment to dispense smaller quantities from the storage tanks into tank trucks. "Terminal" does not include (i) an entire facility that has been closed and has not been used to store petroleum products for at least two (2) years prior to its proposed acquisition by respondent or (ii) any part of a facility that is used and has been used for the last two (2) years exclusively for the storage of products other than petroleum products.

(i) *"Terminalling"* means storing petroleum products at a terminal. A party is "engaged in terminalling" if it stores petroleum product at a facility that it owns or operates in whole or in part.

(j) *"Terminalling agreement"* means any arrangement whereby respondent (i) purchases or leases any part of a terminal, (ii) becomes the operator of any part of a terminal, or (iii) contracts for the use of any part of a terminal.

(k) *"Throughput agreement"* means any arrangement, other than a terminalling agreement as defined in subparagraph (j) of this paragraph, for receipt, storage and dispensing of petroleum products at a terminal owned or operated by another person or firm.

II.

It is ordered, That for a period commencing on the date this order becomes final and continuing through March 31, 1997, respondent shall cease and desist from acquiring, directly or indirectly, through subsidiaries or otherwise, without prior approval of the Federal Trade Commission, any part of the stock or share capital of any person or firm engaged in terminalling, refining, or retail marketing in the State of Hawaii, or any assets of, or interest in a refinery, terminal or gasoline station in the State of Hawaii.

It is further ordered, That for a period commencing on the date this order becomes final respondent shall cease and desist from entering into, directly or indirectly, through subsidiaries or otherwise, without the prior approval of the Federal Trade Commission, any terminalling agreement in the State of Hawaii that takes effect before March 31, 1997.

Provided, however, That nothing in paragraph II of this order shall require prior approval of the Federal Trade Commission for, or prohibit respondent from:

(a) acquiring in a transaction (not part of a series of transactions involving the acquisition for $375,000 or more of all or part of a

terminal) a terminal the acquisition price of which is not more than $375,000;

(b) acquiring any gasoline stations from any party who neither owns nor operates all or part of a terminal on the island of the State of Hawaii where such gasoline station or stations are located and has neither owned nor operated a terminal on that island within two (2) years of the time of the proposed acquisition;

(c) acquiring from any one party any of the following: (i) not more than ten (10) gasoline stations on the Island of Oahu; (ii) not more than four (4) gasoline stations on the Island of Maui; (iii) not more than three (3) gasoline stations on the Island of Hawaii; (iv) not more than two (2) gasoline stations on the Island of Kauai; (v) not more than one (1) gasoline station on the Island of Molokai;

(d) leasing or contracting for the use of the petroleum products capacity of a terminal, provided that the lease or contract does not have the effect of excluding others from the use of 50 percent of the petroleum products capacity of the terminal;

(e) making any lease or contract for the use of a terminal where neither the owner nor operator of that terminal has owned within two (2) years of the lease or contract any gasoline stations located on the same island as the terminal; or

(f) making any lease or contract for the use of a terminal where the owner and the operator retains ownership of at least the same number of gasoline stations that it owns on the same island as the terminal for at least five (5) years after the lease or contract is consummated.

III.

One (1) year from the date this order becomes final and annually thereafter, respondent shall file with the Commission a verified written report of its compliance with this order, as well as a summary of the date, parties, location, volumes, duration and terms of each agreement respondent entered during the year concerning (i) any acquisition or lease from another party of a gasoline station in the state of Hawaii, (ii) any acquisition of a terminal in the state of Hawaii, and (iii) any arrangement that provides respondent with petroleum product storage at a terminal in the state of Hawaii not owned or operated by respondent, including exchange agreements, throughput agreements, leases or similar arrangements.

IV.

Nothing in this order shall apply to, require Federal Trade Commission prior approval for the exercise of, or otherwise limit the respondent's rights under any terminalling or other agreement in effect prior to the date this order becomes final, or to any extension of these rights if the assets, capacity, and throughput (as appropriate) available to respondent do not increase as a result of such extension.

V.

For the purpose of determining or securing compliance with this order, and subject to any legally recognized privilege, upon written request and on reasonable notice to respondent made to its principal offices, respondent shall permit any duly authorized representatives of the Commission:

1. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of respondent relating to any matters contained in this order; and

2. Upon five (5) days' notice to respondent and without restraint or interference from them, to interview officers or employees of respondent, who may have counsel present, regarding such matters.

VI.

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure that may affect compliance obligations arising out of this order including but not limited to dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change.

CONCURRING STATEMENT OF CHAIRMAN DANIEL OLIVER

In October 1987 the Commission filed an application for injunctive relief to prevent Pacific Resources, Inc. from acquiring any of the Hawaiian Petroleum distribution and marketing assets of Shell Oil Company. I supported the Commission decision to authorize that application. In November 1987 a federal district court enjoined consummation of the acquisition, and the parties subsequently announced that they had terminated their acquisition agreements.

Later in November 1987 the Commission voted to issue an administrative complaint against Pacific Resources. I dissented from that decision because Pacific Resources had abandoned its acquisition effort, and I felt that additional litigation to secure additional relief was not warranted. Fortunately, counsel for the complaint and for Pacific Resources have been able to negotiate an order that represents a good settlement, and that is far preferable to the prospect of additional litigation. I have therefore voted for final approval of the proposed order.

IN THE MATTER OF

NEW YORK STATE CHIROPRACTIC ASSOCIATION

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket 9210. Complaint, Sept. 9, 1987—Decision, Nov. 11, 1988

This consent order prohibits, among other things, the New York State Chiropractic Association from conspiring to coerce higher payments for chiropractors from Group Health Inc., a third-party payer of health care benefits, through mass departicipation.

Appearances

For the Commission: *Jonathan B. Banks.*

For the respondent: *Lillian R. Villanova,* White Plains, N.Y. and *Tom M. Schaumberg, Howrey & Simon,* Washington, D.C.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended (15 U.S.C. 41 *et seq.*), and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the New York State Chiropractic Association has violated the provisions of Section 5 of the Federal Trade Commission Act and that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint, stating its charges as follows:

PARAGRAPH 1. Respondent New York State Chiropractic Association ("respondent") is a corporation formed pursuant to the laws of the State of New York. Respondent is a voluntary association of approximately 1800 chiropractors, who comprise a majority of the chiropractors licensed to practice in New York. Its principal business office is located at 215 Park Avenue South, Room 1813, New York, New York.

PAR. 2. Respondent's members are generally engaged in the business of providing chiropractic services to patients for a fee. Except to the extent that competition has been restrained as herein alleged, respondent's members have been and are now in competition among

themselves, and with other chiropractors and other health care providers.

PAR. 3. Respondent is organized for the purpose, among others, of guarding and fostering its members' economic interests, and it engages in substantial activities that further its members' pecuniary interests. As a result of such purpose and activities, respondent is a corporation organized for the profit of its members within the meaning of Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. 44.

PAR. 4. In the conduct of their businesses of providing chiropractic services, respondent's members treat patients from states other than New York, use supplies and equipment that are shipped across state lines, and receive for their services substantial sums of money that flow across state lines. Some fees for chiropractic services rendered by respondent's members are paid by patients or third-party payers from states other than New York, and some are paid by patients or third-party payers in New York State with funds collected from third-party payers, employers or employees in states other than New York. The general business practices of respondent's members, and the acts and practices described below, affect the interstate movement of patients, the interstate purchase of chiropractic supplies and products, and the interstate flow of funds, and are in or affect commerce within the meaning of Section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1).

PAR. 5. Fees that chiropractors charge their patients are often covered by health benefit programs that are sold by third-party payers. Among the third-party payers offering health benefits programs to persons employed within the State of New York is Group Health, Inc. ("GHI").

PAR. 6. GHI invites health care providers, including chiropractors, to enter into participation agreements, which establish the terms and conditions of the relationship between the providers and GHI. When a chiropractor and GHI enter into a participation agreement, they agree that when the chiropractor renders services to a patient who is insured under GHI's health benefit plan, GHI will pay the participating chiropractor directly and the chiropractor will accept the amount received from GHI as payment in full. Thus, under the GHI participation agreement, in exchange for contractual benefits that may be advantageous to the chiropractor, including direct payment from GHI for services provided to its subscribers, the chiropractor

agrees not to require any payment from the patient (except for the small co-payment GHI requires the patient to make under some contracts).

PAR. 7. GHI competes with many other persons offering health benefit programs. This competition involves prices (*i.e.*, premiums), services covered and many other factors of concern to individuals seeking health insurance. Therefore, GHI seeks to minimize its costs, while also securing participation agreements with sufficient health care providers, in terms of quantity, quality and other relevant factors, to attract subscribers to the GHI health benefit programs. Accordingly, GHI offers to chiropractors participation agreements with the terms and conditions that GHI believes will minimize its costs while still attracting enough chiropractors to make GHI health benefit programs attractive to consumers. Absent collusion between or among chiropractors, each chiropractor would decide individually whether to enter into a participation agreement with GHI, and GHI and its subscribers would enjoy the benefits of competition among the chiropractors.

PAR. 8. In deciding the terms and conditions to offer chiropractors in participation agreements, GHI has attempted to keep down the price it pays for chiropractic services provided to its subscribers in at least two ways. First, it has limited the dollar amount it will pay for each diagnostic x-ray, initial consultation session and actual treatment session. Second, it has limited the number of treatment sessions for which it will provide payment, absent a specific showing by the chiropractor that additional treatments are or were necessary and appropriate.

PAR. 9. In 1984 respondent agreed with some of its members, and some of its members agreed among themselves, that they would not compete with each other, but would act as a united front to coerce an increase in payments to participating chiropractors. Pursuant to that agreement, respondent, acting as a combination of at least some of its members, or in conspiracy with some of them or others, engaged in the following specific actions, among others:

A. In December 1984 respondent threatened GHI with collective action by its members if GHI did not accede to respondent's demand for increased payment levels for chiropractic services.

B. In January 1985 respondent took a survey of its members to determine, among other things, whether those who participated in GHI's program would support a concerted departicipation effort. The

results showed that a substantial majority of respondent's members who completed and returned the survey were willing to departicipate from GHI's program as part of a concerted campaign if requested to do so by respondent.

C. In May 1985, after GHI refused to meet the terms and conditions demanded by respondent, respondent began soliciting its members to resign from participation in GHI's program and to send their letters of resignation to respondent, which would present them collectively and directly to GHI. Respondent sent two solicitation letters to its members, each bearing the heading, "URGENT—MEMBER ACTION REQUESTED."

D. In May and June 1985, in response to respondent's solicitation efforts, many of respondent's members submitted the requested resignation letters to respondent, which in turn submitted them to GHI.

E. In July 1985 GHI agreed to reconsider its position with respect to the limits it placed on payments for chiropractic services, and respondent ceased soliciting letters of resignation from its members. On August 1, 1985, for many diagnosis, GHI increased the number of treatments for which it would pay without requiring additional information from the chiropractor.

F. Shortly after an increase in GHI's payment levels for chiropractic services became effective on July 1, 1986, respondent requested that GHI return the resignation letters that respondent had sent to GHI.

PAR. 10. Respondent's action described in paragraph nine have had, or have the tendency and capacity to have, the following effects, among others:

A. Restraining price and service competition among chiropractors in the State of New York.

B. Increasing the prices that chiropractors in the State of New York are paid for their services.

C. Depriving GHI and its insureds of the benefits of competition among chiropractors in the State of New York.

PAR. 11. Respondent's acts and practices described in paragraph nine constitute a conspiracy to fix prices and to conduct a boycott, and constitute unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act. Respondent's combination or conspiracy, or the effects thereof, is continuing and will continue in the absence of the relief herein requested.

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondent named in the caption hereof with violation of Section 5 of the Federal Trade Commission Act, as amended, and the respondent having been served with a copy of that complaint, together with a notice of contemplated relief; and

The respondent, its attorney, 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, 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 Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with §3.25(c) of its Rules; and

The Commission having considered the matter and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent New York State Chiropractic Association is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 215 Park Avenue South, in the City of New York, State of New York.

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 for purposes of this order the following definitions shall apply:

A. *"NYSCA"* means New York State Chiropractic Association and

its Board of Directors, House of Delegates, districts, committees, officers, representatives, agents, employees, successors and assigns.

B. *"Third-party payer"* means any person or entity that reimburses for, purchases, or pays for health care services provided to any other person, and includes, but is not limited to, health insurance companies; prepaid hospital, medical or other health service plans, such as Blue Shield and Blue Cross plans; health maintenance organizations; preferred provider organizations; government health benefits programs; administrators of self-insured health benefits programs; and employers or other entities providing self-insured health benefits programs.

C. *"Chiropractor"* means a person licensed to engage in the practice of chiropractic.

D. *"Participation agreement"* means any existing or proposed agreement in which a third-party payer agrees to pay a chiropractor directly for the provision of chiropractic services, and the chiropractor agrees in advance to accept such payment from the third-party payer for the provision of such chiropractic services during the term of the agreement.

II.

It is further ordered, That NYSCA, directly, indirectly, or through any corporate or other device, in connection with the provision of chiropractic services in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Entering into, attempting to enter into, organizing, implementing, or continuing any agreement or understanding, express or implied, with any NYSCA member or among any NYSCA members, to deal with any third-party payer on collectively determined terms by, for example:

1. acting on behalf of any NYSCA member or members to negotiate with any third-party payer; or

2. communicating that NYSCA members will refuse to enter into or withdraw from any participation agreement, actual or proposed, if any term or condition is not acceptable to NYSCA or to NYSCA members collectively.

B. For a period of eight (8) years after the date the order is served,

providing advice to any NYSCA member on the desirability or appropriateness of any participation agreement or of any term of any participation agreement, actual or proposed, including, but not limited to, comments on the desirability or appropriateness of any such agreement or term, or advice that any NYSCA member refuse to enter into or withdraw from any participation agreement, actual or proposed.

III.

It is further ordered, That NYSCA:

A. Mail a copy of this order to each of its members within thirty (30) days of the date the order is served.

B. Publish this order in an issue of *NYSCA Newsletter* published no later than sixty (60) days after the date the order is served in the same type size normally used for articles which are published in *NYSCA Newsletter.*

C. For a period of five (5) years after the date the order is served, provide each new NYSCA member with a copy of this order at the time the member is accepted into membership.

IV.

It is further ordered, That NYSCA:

A. Shall file a written report with the Commission within ninety (90) days of the date the order is served, and annually for five (5) years on the anniversary of the date the order was served, and at such other times as the Commission may by written notice to NYSCA require, setting forth in detail the manner and form in which it has complied and is complying with the order.

B. For a period of five (5) years after the date the order is served, maintain and make available to Commission staff, for inspection and copying upon reasonable notice, records adequate to describe in detail any action taken in connection with the activities covered by Parts II and III of this order, including, but not limited to, all documents generated by NYSCA or that come into NYSCA's possession, custody, or control, regardless of source, that embody, discuss or refer to the terms or conditions of any participation agreement.

V.

It is further ordered, That NYSCA shall notify the Commission at least thirty (30) days prior to any proposed change to itself, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation or association, or any other change which may affect compliance with this order.