

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

In the Matter of)	
)	
)	
REYNOLDS AMERICAN INC. ,)	File No. 141-0168
a corporation,)	
)	
and)	
)	
LORILLARD, INC.)	
a corporation.)	
)	

AGREEMENT CONTAINING CONSENT ORDER

The Federal Trade Commission (“Commission”), having initiated an investigation of the proposed acquisition of Lorillard, Inc. (“Lorillard”), by Reynolds American Inc. (“Reynolds”) (“Proposed Respondents”), and it now appearing that Proposed Respondents are willing to enter into this Agreement Containing Consent Order (“Consent Agreement”) to divest certain assets and providing for other relief:

IT IS HEREBY AGREED by and between Proposed Respondents, by their duly authorized officers and attorneys, and counsel for the Commission that:

1. Proposed Respondent Reynolds American Inc., is a corporation organized, existing, and doing business under, and by virtue of, the laws of North Carolina, with its office and principal place of business at 401 Main Street, Winston-Salem, NC 27101.
2. Proposed Respondent Lorillard, Inc., is a corporation organized, existing, and doing business under, and by virtue of, the laws of the state of Delaware, with its principal place of business located at 714 Green Valley Road, Greensboro, NC 27401.
3. Proposed Respondents admit all the jurisdictional facts set forth in the Complaint.
4. Proposed Respondents waive:
 - a. Any further procedural steps;
 - b. The requirement that the Commission’s Decision and Order, attached hereto and made a part hereof, contains statements of findings of fact and conclusions of law;

- c. All rights to seek judicial review or otherwise to challenge or contest the validity of the Decision and Order entered pursuant to this Consent Agreement; and
 - d. Any claim under the Equal Access to Justice Act.
5. Thirty (30) days after this Consent Agreement is signed by the Proposed Respondents, the Proposed Respondents shall submit their initial compliance report, pursuant to Section 2.33 of the Commission Rules, 16 C.F.R. § 2.33, and thereafter, shall submit compliance reports every thirty (30) days until the Decision and Order becomes final, at which time the reporting obligations contained in the Decision and Order (other than the requirement to submit an initial report pursuant to this Consent Agreement) shall control. Each compliance report shall set forth in detail the manner in which each Proposed Respondent has complied, is complying, and will comply with the Consent Agreement, and the Decision and Order. Each Proposed Respondent shall provide sufficient information and documentation to enable the Commission to determine independently that the Proposed Respondent is in compliance with the Consent Agreement and the Decision and Order.
 6. Each compliance report shall be either verified by a notarized signature or self-verified in a manner set forth in 28 U.S.C. § 1746. Section 2.41(a) of the Commission's Rules of Practice requires that an original and two copies of all compliance reports be filed with the Commission. Each Proposed Respondent shall file an original report and one copy with the Secretary of the Commission, and shall send at least one copy directly to the Bureau of Competition's Compliance Division.
 7. This Consent Agreement, and any compliance reports filed pursuant to this Consent Agreement, shall not become part of the public record of the proceeding unless and until the Consent Agreement is accepted by the Commission. If this Consent Agreement is accepted by the Commission, it will be placed on the public record for a period of thirty (30) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this Consent Agreement and so notify the Proposed Respondents, in which event the Commission will take such action as it may consider appropriate, or issue and serve its Decision and Order, in disposition of the proceeding.
 8. This Consent Agreement is for settlement purposes only and does not constitute an admission by Proposed Respondents that the law has been violated as alleged in the draft of Complaint, or that the facts as alleged in the draft Complaint, other than jurisdictional facts, are true.
 9. This Consent Agreement contemplates that, if it is accepted by the Commission, the Commission may make information public with respect thereto. If such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission may, without further notice to Proposed

Respondents, issue the attached Decision and Order containing an order to divest and providing for other relief in the disposition of the proceeding.

10. When final, the Decision and Order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time as provided by statute for other orders. The Decision and Order shall become final upon service. Delivery of the Decision and Order to the Proposed Respondents by any means provided in Commission Rule 4.4(a), 16 C.F.R. § 4.4(a), including, without limitation, delivery to an office within the United States of the counsel for the Proposed Respondents identified on this Consent Agreement, shall constitute service. Proposed Respondents waive any rights they may have to any other manner of service. Proposed Respondents also waive any right they may otherwise have to service of any appendices attached or incorporated by reference into the Decision and Order, if Proposed Respondents are already in possession of copies of such appendices, and agree that they are bound to comply with and will comply with the Decision and Order to the same extent as if they had been served with copies of such appendices.
11. The Complaint may be used in construing the terms of the Decision and Order, and no agreement, understanding, representation, or interpretation not contained in the Decision and Order, or the Consent Agreement may be used to vary or contradict the terms of the Decision and Order.
12. By signing this Consent Agreement, Proposed Respondents represent and warrant that they can accomplish the full relief contemplated by the attached Decision and Order (including effectuating the required divestitures, as well as any necessary assignments or transfers) and that all parents, subsidiaries, affiliates, and successors necessary to effectuate the full relief contemplated by this Consent Agreement are parties to this Consent Agreement or within the control of parties to this Consent Agreement.
13. Proposed Respondents agree that they shall interpret the Imperial Divestiture Agreement, as that term is used in the Decision and Order, in a manner that is fully consistent with all of the relevant provisions and remedial purposes of the Decision and Order.
14. Proposed Respondents have read the draft of Complaint, and the Decision and Order. Proposed Respondents understand that once the Decision and Order has been issued, each Proposed Respondent will be required to file one or more compliance reports showing that it has fully complied with the Decision and Order.

15. The Proposed Respondents agree to comply with the applicable terms of the proposed Decision and Order from the date the Proposed Respondents sign this Consent Agreement. Proposed Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the Decision and Order after it becomes final.

REYNOLDS AMERICAN, INC.

FEDERAL TRADE COMMISSION

By: Susan M. Cameron
Chairman, President and
Chief Executive Officer
Reynolds American Inc.

Dated: _____

Robert S. Tovsky
Attorney
Bureau of Competition

Approved:

By: Joe Sims
Jones Day
Counsel for Reynolds American Inc.

Dated: _____

James E. Rhilinger
Deputy Assistant Director
Bureau of Competition

LORILLARD, INC.

Stephen Weissman
Deputy Director
Bureau of Competition

By: Murray S. Kessler
Chairman, President, and
Chief Executive Officer
Lorillard, Inc.

Dated: _____

Deborah L. Feinstein
Director
Bureau of Competition

Dated: _____

By: Matthew J. Reilly
Simpson Thacher
Counsel for Lorillard, Inc.

Dated: _____