

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

Plaintiff,

v.

THIRD POINT OFFSHORE FUND, LTD.

THIRD POINT ULTRA LTD.

THIRD POINT PARTNERS QUALIFIED
L.P., and

THIRD POINT LLC

Defendants.

Civil Action No.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

(1) The parties consent that the Court may file and enter a Final Judgment in the form attached to this Stipulation as Exhibit A, on the Court's own motion or on the motion of any party at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act ("APPA") (15 U.S.C. § 16), and without further notice to any party or other proceedings if the United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice of its withdrawal on Defendants Third Point Offshore Fund, Ltd., Third Point Ultra Ltd., Third Point Partners

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Qualified L.P., and Third Point LLC (collectively, "Defendants") and filing that notice with the Court;

(2) Defendants waive any objection to venue or jurisdiction for purposes of this action and authorize Willkie Farr & Gallagher LLP to accept service of all process in this matter on their behalf;

(3) Defendants agree to arrange, at their expense, publication of the newspaper notice required by the APPA, which shall be drafted by the United States as prescribed by the APPA. The publication shall be arranged no later than five (5) business days after Defendants' receipt from the United States of the text of the notice and the identity of the newspaper within which the publication shall be made. Defendants shall promptly send to the United States (1) confirmation that publication of the newspaper notice has been arranged, and (2) the certification of the publication prepared by the newspaper within which the notice was published;

(4) Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment. The United States shall have the full rights and enforcement powers in the proposed Final Judgment, including Section VIII, as though they were in full force and effect as the final order of the Court;

(5) This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court;

(6) In the event the United States has withdrawn its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, and the time has expired for all appeals of

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any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation and the submission of the proposed Final Judgment shall be without prejudice to any party in this or any other proceeding;

(7) The Defendants represent that the actions they are required to perform pursuant to the proposed Final Judgment can and will be performed, and that the Defendants will later raise no claim of mistake, hardship, or difficulty of compliance as grounds for asking the Court to modify any of the provisions contained therein; and

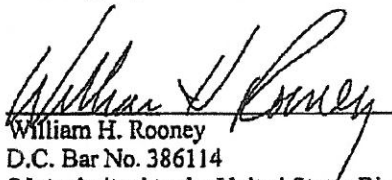
(8) The entry of the Final Judgment in accordance with this Stipulation settles, discharges, and releases any and all claims of the United States and the Federal Trade Commission, including claims for civil penalties and equitable relief pursuant to Section 7A of the Clayton Act, 15 U.S.C. § 18a, against Defendants for failure to comply with Section 7A of the Clayton Act, 15 U.S.C. §18a, in connection with the acquisition or receipt of voting securities of DowDuPont Inc. in 2017 by Defendant Third Point Offshore Fund, Ltd., by Defendant Third Point Ultra Ltd., and by Defendant Third Point Partners Qualified L.P.

FOR THE DEFENDANTS:

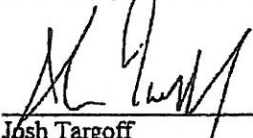
Third Point Offshore Fund, Ltd.
Third Point Ultra Ltd.
Third Point Partners Qualified L.P.
Third Point LLC

By: 
Theodore C. Whitehouse
D.C. Bar No. 298331
Willkie Farr & Gallagher LLP
1875 K Street, N.W.
Washington, DC 20006-1238

Dated: 26 June 2019

By: 
William H. Rooney
D.C. Bar No. 386114
(Not admitted to the United States District Court
for the District of Columbia)
Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, NY 10019-6099

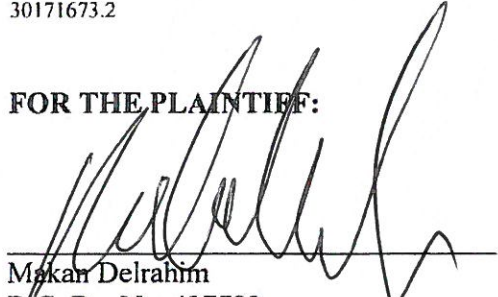
Dated: June 19, 2019

By: 
Josh Targoff
(Admitted only to the Bar of New York)
Partner, Chief Operating
Officer and General Counsel
Third Point LLC
390 Park Avenue
New York, NY 10022

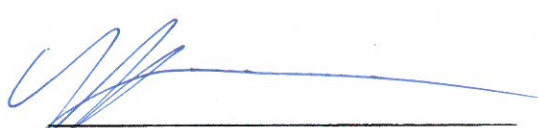
Dated: June 25, 2019

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FOR THE PLAINTIFF:



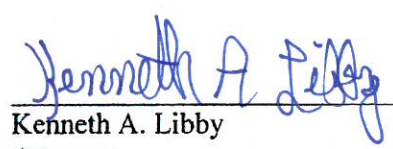
Makan Delrahim
D.C. Bar No. 437793
Assistant Attorney General
Department of Justice
Antitrust Division
Washington, D.C. 20530
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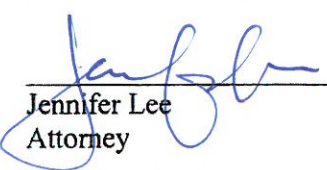
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Federal Trade Commission
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(202) 326-2151



Marian Bruno
D.C. Bar No. 414126
Deputy Director



Kenneth A. Libby
Attorney



Jennifer Lee
Attorney

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ORDER

The Court having considered the parties' Joint Motion for Entry of Stipulation and Order, and upon the consent of the parties,

IT IS HEREBY ORDERED that all terms and provisions of the proposed Final Judgment shall be fully applicable to Defendants, and Defendants shall abide by and comply with such terms and provisions, pending compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16.

Dated: _____

UNITED STATES DISTRICT COURT JUDGE

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Parties Entitled To Notice Of Entry of Order

Counsel for the United States

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Jennifer Lee, Esq.
Special Attorneys
Federal Trade Commission
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Theodore C. Whitehouse,
Esq.
William H. Rooney, Esq.
Philip F. DiSanto, Esq.
Willkie Farr & Gallagher
LLP
787 Seventh Avenue
New York, NY 10019
Counsel for Defendants

Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff

v.

THIRD POINT OFFSHORE FUND, LTD.,
THIRD POINT ULTRA LTD.,
THIRD POINT PARTNERS QUALIFIED
L.P., and THIRD POINT LLC,

Defendants.

Civil Action No. [xx]-[xxxx]

[PROPOSED] FINAL JUDGMENT

WHEREAS, the United States of America filed its Complaint on August 28, 2019, alleging that Defendants Third Point Offshore Fund, Ltd., Third Point Ultra Ltd., and Third Point Partners Qualified L.P. (collectively, “Third Point Funds” or “Defendant Funds”) violated Section 7A of the Clayton Act (15 U.S.C. § 18a, commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the “HSR Act”)), and the United States and Defendants Third Point Funds and Third Point LLC (collectively, “Defendants”), by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against, or any admission by, any party regarding any such issue of fact or law;

AND WHEREAS Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

NOW, THEREFORE, before any testimony is taken, and without trial or adjudication of any issue of fact or law, and upon the consent of the parties, it is ORDERED, ADJUDGED AND

DECREED;

I. JURISDICTION

This Court has jurisdiction over the subject matter of this action. The Defendants consent solely for the purpose of this action and the entry of this Final Judgment that this Court has jurisdiction over each of the parties to this action and that the Complaint states a claim upon which relief may be granted against Defendants under Section 7A of the Clayton Act, as amended (15 U.S.C. § 18a).

II. DEFINITIONS

As used in this Final Judgment:

(A) “Consolidation” shall have the meaning of “consolidation” as used in 16 C.F.R. § 801.2.

(B) “Consolidated Issuer” means an Issuer that is formed by a Consolidation.

(C) “*De Minimis* Exemption” means a modification to the HSR Act or any Regulation thereunder that exempts from the reporting and waiting requirements of the HSR Act the acquisition of Voting Securities of an Issuer by any Acquiring Person, or by an Acquiring Person that is not a competitor of the Issuer or that otherwise meets specified criteria, on the basis that the acquisition results in the Acquiring Person’s holding not more than, or less than, a specified percentage of the outstanding Voting Securities of the Issuer.

(D) “Issuer” means a legal entity that issues Voting Securities.

(E) “Person” means any natural person.

(F) “Regulation” shall mean any rule, regulation, statement, or interpretation under the HSR Act that has legal effect with respect to the implementation or application of the HSR Act or any section within 16 C.F.R. §§ 801-803.

(G) “Third Point LLC” means Defendant Third Point LLC, a limited liability company organized under the laws of the State of Delaware, with its principal place of business at 390 Park Avenue, 19th Floor, New York, NY 10022; its successors and assigns; and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

(H) “Third Point Offshore Fund, Ltd.” means Defendant Third Point Offshore Fund, Ltd., an exempted company organized under the laws of the Cayman Islands, with its registered office at Walkers Corporate Limited, Corporate Centre, 27 Hospital Road, George Town, Grand Cayman KY1-9008, Cayman Islands; its successors and assigns; and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

(I) “Third Point Partners Qualified L.P.” means Defendant Third Point Partners Qualified L.P., a limited partnership organized under the laws of the State of Delaware, with its registered address at Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801; its successors and assigns; and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

(J) “Third Point Ultra Ltd.” means Defendant Third Point Ultra Ltd., an international business company organized under the laws of the British Virgin Islands, with its registered office at Maples Corporate Services (BVI) Ltd., Kingston Chambers, P.O. Box 173, Road Town, Tortola,

British Virgin Islands; its successors and assigns; and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

(K) Other capitalized terms have the meanings as defined in the HSR Act and Regulations promulgated thereunder, 16 C.F.R. §§ 801-803.

III. APPLICABILITY

(A) This Final Judgment applies to all Defendants, as defined above, and to all other Persons and entities who are in active concert or participation with any of the foregoing with respect to conduct prohibited in Paragraph IV when the relevant Persons or entities have received actual notice of this Final Judgment by personal service or otherwise.

(B) Pursuant to Rule 506(d)(2)(iii), 17 C.F.R. § 230.506(d)(2)(iii), as promulgated under the Securities Act of 1933, 15 U.S.C. § 77a, *et seq.*, disqualification under paragraph (d)(1) of Rule 506, 17 C.F.R. § 230.506(d)(1), shall not arise as a consequence of the entry of this Final Judgment or of the entry of any other order or judgment in this action.

IV. PROHIBITED CONDUCT

Each Defendant is enjoined from acquiring Voting Securities of a Consolidated Issuer in exchange for Voting Securities of any Issuer that was a party to the Consolidation when:

(A) The acquisition of the Voting Securities of the Consolidated Issuer would meet the notification requirements of the HSR Act;

(B) Defendant's acquisition of such Voting Securities would not be exempt from the reporting and waiting requirements of the HSR Act; and

(C) Defendant has not fulfilled the reporting and waiting requirements of the HSR Act with respect to the acquisition of such Voting Securities.

V. CIVIL PENALTY

(A) Judgment is hereby entered in this matter in favor of Plaintiff and against the Defendants and, pursuant to Section 7A(g)(1) of the Clayton Act, 15 U.S.C. § 18a(g)(1), and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114-74 § 701, codified at 28 U.S.C. § 1 (amending the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. 101-410 (codified at 28 U.S.C. § 2461 note)), and Federal Trade Commission Rule 1.98, 16 C.F.R. § 1.98, 81 Fed. Reg. 42, 476 (June 30, 2016), Defendant Funds are hereby ordered, jointly and severally, to pay a single civil penalty in the amount of six hundred nine thousand, eight hundred ten dollars and no cents (\$609,810.00). Payment of the civil penalty ordered hereby shall be made by wire transfer of funds or cashier's check. If the payment is made by wire transfer, Defendant Funds shall contact Janie Ingalls of the Antitrust Division's Antitrust Documents Group at (202) 514-2481 for instructions before making the transfer. If the payment is made by cashier's check, the check shall be made payable to the United States Department of Justice and delivered to:

Janie Ingalls
United States Department of Justice
Antitrust Division, Antitrust Documents Group
450 5th Street, NW
Suite 1024
Washington, D.C. 20530

(B) Defendant Funds shall pay the full amount of the civil penalty within thirty (30) days of entry of this Final Judgment. In the event of a default or delay in payment, interest at the rate of 18 percent per annum shall accrue thereon from the date of the default or delay to the date of payment.

VI. COMPLIANCE INSPECTION

(A) For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, duly authorized representatives of the United States, including agents and consultants retained by the United States, shall, upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted:

- (1) access during Defendants' office hours to inspect and copy, or at the option of the United States, to require Defendants to provide electronic copies of all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants, relating to any matters contained in this Final Judgment; and
- (2) to interview, either informally or on the record, Defendants' directors, officers, employees, agents, or other Persons, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

(B) Upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports or responses to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

(C) No information or documents obtained by the means provided in this Final Judgment shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States or of the Federal Trade Commission, except in the course of legal proceedings to which the United States is a party (including grand

jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(D) If, at the time information or documents are furnished by Defendants to the United States, Defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, “Subject to claim of protection under Rule 26(c)(1) of the Federal Rules of Civil Procedure,” then the United States shall give Defendants ten (10) calendar days’ notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

VII. RETENTION OF JURISDICTION

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish any violations of its provisions.

VIII. ENFORCEMENT OF FINAL JUDGMENT

(A) The United States retains and reserves all rights to enforce the provisions of this Final Judgment, including the right to seek an order of contempt from this Court. Defendants agree that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged civil violation of this Final Judgment, the United States may establish a civil violation of the decree and the appropriateness of any remedy therefor by a preponderance of the evidence, and Defendants waive any argument that a different standard of proof should apply.

(B) The Final Judgment should be interpreted to give full effect to the procompetitive purposes of the antitrust laws, including the HSR Act and Regulations promulgated thereunder. Defendants agree that they may be held in contempt of, and that the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court in light of these procompetitive principles and applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

(C) In any enforcement proceeding in which the Court finds that the Defendants have violated this Final Judgment, the United States may apply to the Court for a one-time extension of this Final Judgment, together with such other relief as may be appropriate. In connection with any successful effort by the United States to enforce this Final Judgment against a Defendant, whether litigated or resolved prior to litigation, that Defendant agrees to reimburse the United States for the fees and expenses of its attorneys, as well as any other costs including experts' fees, incurred in connection with that enforcement effort, including in the investigation of the potential violation.

IX. EXPIRATION OF FINAL JUDGMENT

Unless the Court grants an extension, this Final Judgment shall expire five (5) years from the date of its entry, except that:

(A) after three (3) years from the date of its entry, this Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the civil penalty has been paid and that the continuation of the Final Judgment no longer is necessary or in the public interest; or

(B) if, during any part of the term of this Final Judgment, a *De Minimis* Exemption becomes legally effective, then this Final Judgment may be terminated only upon notice by the

United States to the Court that the continuation of the Final Judgment no longer is necessary or in the public interest. It shall be in the sole discretion of the United States whether to seek such termination after receiving a request to do so from Defendants.

X. COSTS

Each party shall bear its own costs.

XI. PUBLIC INTEREST DETERMINATION

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, including making available to the public copies of this Final Judgment, the Competitive Impact Statement, any comments thereon, and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and responses to comments filed with the Court, entry of this Final Judgment is in the public interest.

DATED: _____

Court approval subject to the
Antitrust Procedures and Penalties Act,
15 U.S.C. § 16

United States District Judge