

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

COMMISSIONERS: **Joseph J. Simons, Chairman**
 Noah Joshua Phillips
 Rohit Chopra
 Rebecca Kelly Slaughter
 Christine S. Wilson

In the Matter of

**Axon Enterprise, Inc.,
a corporation,**

and

**Safariland, LLC,
a limited liability company.**

DECISION AND ORDER

DOCKET NO. 9389

**DECISION
(Safariland)**

The Federal Trade Commission (“Commission”) having heretofore issued its complaint charging Safariland, LLC, with violations 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 Safariland, LLC, having been served with a copy of that complaint together with a notice of contemplated relief, and Safariland, LLC, having answered the complaint denying said charges; and

Safariland, LLC, its attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent Order, an admission by Safariland, LLC, of all the jurisdictional facts, as those facts relate to the First and Second Violations 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 Safariland, LLC, that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts related to the First and Second Violations of the complaint, are true, 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The Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with § 3.25(c) of its Rules; and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 it on the public record for a period of 30 days for the receipt and consideration of public comments. In further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission makes the following jurisdictional findings and issues the following Decision and Order (“Order”):

1. Safariland, LLC, is a limited liability company organized, existing, and doing business under, and by virtue of, the laws of the State of Delaware with its executive offices and principal place of business located at 13386 International Parkway, Jacksonville, Florida 32218.
2. The Federal Trade Commission has jurisdiction over the subject matter of this proceeding and over Safariland, LLC, and the proceeding is in the public interest.

ORDER

I. Definitions

IT IS HEREBY ORDERED that, as used in this Order, the following definitions apply:

- A. “Axon” means Axon Enterprise, Inc., its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates controlled by Axon Enterprise, Inc., and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- B. “Safariland” or “Respondent Safariland” means Safariland, LLC, its directors, managers, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates controlled by Safariland, LLC, and the respective directors, managers, officers, employees, agents, representatives, successors, and assigns of each.
- C. “Commission” means the Federal Trade Commission.
- D. “Antitrust Compliance Program” means a program, including an effective in-person or web-based antitrust training program, to ensure compliance with this Order.
- E. “Business” means a joint venture, subsidiary, partnership, division, group, affiliate, firm, corporation, association, unincorporated organization, or other asset participating in the sales of products or services.
- F. “Holster Agreement” means the Product Development and Supplier Agreement executed by Axon Enterprise, Inc., and Safariland, LLC, and attached to the Purchase Agreement as Exhibit E.
- G. “Purchase Agreement” means the Membership Interest Purchase Agreement between Axon Enterprise, Inc., and Safariland, LLC, dated May 3, 2018.

- H. “Operative Amendments” means the First Amendment to the Purchase Agreement and the First Amendment to the Holster Agreement, dated January 16, 2020 (attached as Confidential Exhibit A).
- I. “Prohibited Provisions” are provisions 5.03(a), 5.03(b), 5.03(c), and 5.06(a) of the Purchase Agreement and provisions 15.1, 15.3, and 15.4 of the Holster Agreement.

II. Prohibition

IT IS FURTHER ORDERED that Respondent Safariland, having rescinded the Prohibited Provisions through execution of the Operative Amendments, shall not, directly or indirectly, modify the Operative Amendments, or enter into any agreement or understanding with Axon that, in whole or part, incorporates or reproduces the language or substance, directly or indirectly, expressed or implied, of any of the Prohibited Provisions.

III. Prior Approval

IT IS FURTHER ORDERED that Respondent Safariland shall not, without the prior approval of the Commission, enter into, enforce, or solicit any agreement or understanding, whether written or oral, expressed or implied, entered into with Axon after the date this Order is issued, that in whole or part prohibits or restricts competition between Safariland and Axon, including through prohibiting or restricting:

1. Hiring or soliciting employees,
2. Selling or supplying a product or service,
3. Acquiring an interest in a Business, or
4. Soliciting or selling to any customer or customers,

IV. Litigation Assistance Obligations

IT IS FURTHER ORDERED that until a final determination of the litigation with Axon in Docket 9389, including any appeals, and in any Commission action related to Docket 9389 that the Commission may take against Axon, and with the understanding that Complaint Counsel agrees to use reasonable efforts to reduce the burden and expense on Safariland of any efforts Safariland is asked to undertake under this Section IV, Respondent Safariland shall:

- A. At the request of Complaint Counsel, authenticate any documents and/or data that Respondent Safariland produces or has produced to the Commission;
- B. At the request of Complaint Counsel, make representatives of Safariland available, upon reasonable notice, for in-person or telephone interviews with Commission staff;
- C. Agree to service of process of subpoenas issued by Complaint Counsel under Rule 3.34 of the Commission Rules of Practice;

- D. Respond to any outstanding discovery requests issued by Complaint Counsel and not object on the basis that Respondent Safariland is not a party to the litigation in Docket No. 9389;
- E. Make available at least 3 Safariland officers, directors, agents, or employees, or corporate representatives (designated under Rule 3.33(c)(1) of the Commission Rules of Practice) selected by Complaint Counsel for deposition at a mutually-agreed date, time and location;
- F. Make available Safariland deponents to provide hearing testimony if requested to do so by Complaint Counsel;
- G. Provide to Complaint Counsel the best available contact information (current addresses, phone numbers, and email addresses) for the former Safariland employees identified on Confidential Exhibit B attached, and, upon request, contact information for any other former Safariland employees; and
- H. Not withhold information, testimony or documents based on a joint defense agreement or common interest basis when responding to discovery or testimony sought by Complaint Counsel after this Order is issued.

V. Compliance Program

IT IS FURTHER ORDERED that Respondent Safariland, to assure compliance with this Order, shall for 5 years from the date this Order is issued either include in its Antitrust Compliance Program or, if such a Program does not or ceases to exist, include in a newly designed, maintained, and operated Antitrust Compliance Program:

- A. Designation of an officer or director to supervise personally the design, maintenance, and operation of the program, and to be available on an ongoing basis to respond to any questions by officers and directors of Respondent Safariland;
- B. Distribution of a copy of this Order to all officers and directors:
 - 1. Within thirty (30) days after the Order is issued; and,
 - 2. Annually within thirty (30) days of the anniversary of the Order Date until the Order terminates;
- C. Annual training on the requirements of its obligations under Paragraphs II, III, and V of this Order for Respondent Safariland's officers and directors; and,
- D. Retention of documents and records sufficient to record Respondent's compliance with its obligations under Paragraphs II, III, and V of this Order.

VI. Compliance Reports

IT IS FURTHER ORDERED that Respondent Safariland shall file verified written reports ("compliance reports") in accordance with the following:

- A. Respondent Safariland shall submit an interim compliance report 30 days after the Order is issued; annual compliance reports one year after the date this Order is issued, and

annually for the next 4 years on the anniversary of that date; and additional compliance reports as the Commission or its staff may request.

- B. Each compliance report shall contain sufficient information and documentation to enable the Commission to determine independently whether Respondent Safariland is in compliance with the Order. Conclusory statements that Respondent Safariland has complied with its obligations under the Order are insufficient. Respondent Safariland shall include in its report, among other information or documentation that may be necessary to demonstrate compliance:
 - 1. A full description of the measures Respondent Safariland has implemented or plans to implement to ensure that it has complied or will comply with each paragraph of the Order; and
 - 2. Full descriptions of each agreement or modification thereto, whether written or oral, between Respondent Safariland and Axon to the extent not submitted in prior reports.
- C. Respondent Safariland shall retain all material written communications with each party identified in the compliance report and all non-privileged internal memoranda, reports, and recommendations concerning fulfilling Respondent Safariland's obligations under the Order and provide copies of these documents to Commission staff upon request.
- D. Respondent Safariland shall verify each compliance report in the manner set forth in 28 U.S.C. § 1746 by the Chief Executive Officer or another officer or employee specifically authorized to perform this function. Respondent Safariland shall submit an original and 2 copies of each compliance report as required by Commission Rule 2.41(a), 16 C.F.R. § 2.41(a), including a paper original submitted to the Secretary of the Commission and electronic copies to the Secretary at ElectronicFilings@ftc.gov and to the Compliance Division at bccompliance@ftc.gov.

VII. Change in Respondent Safariland

IT IS FURTHER ORDERED that Respondent Safariland shall notify the Commission at least 30 days prior to:

- A. The dissolution of Safariland, LLC;
- B. The acquisition, merger or consolidation of Safariland, LLC; or
- C. Any other change in Respondent Safariland, including assignment and the creation, sale, or dissolution of subsidiaries, if such change may affect compliance obligations arising out of this Order.

VIII. Access

IT IS FURTHER ORDERED that, for purposes of determining or securing compliance with this Order, and subject to any legally recognized privilege, upon written request and 5 days' notice to Respondent Safariland, made to its principal place of business as identified in this Order, registered office of its United States subsidiary, or its headquarters office, Respondent Safariland shall, without restraint or interference, permit any duly authorized representative of the Commission:

- A. Access, during business office hours of Respondent Safariland and in the presence of counsel, to all facilities and access to inspect and copy all business and other records and all documentary material and electronically stored information as defined in Commission Rules 2.7(a)(1) and (2), 16 C.F.R. § 2.7(a)(1) and (2), in the possession or under the control of Respondent Safariland related to compliance with this Order, which copying services shall be provided by Respondent Safariland at the request of the authorized representative of the Commission and at the expense of Respondent Safariland; and
- B. To interview officers, directors, or employees of Respondent Safariland, who may have counsel present, regarding such matters.

IX. Purpose

IT IS FURTHER ORDERED that the purpose of this Order is to remedy the harm alleged in Paragraphs 44-53 and 59-60 of the complaint filed in this civil action as it relates to Respondent Safariland.

X. Term

IT IS FURTHER ORDERED that this Order shall terminate 10 years from the date it is issued.

By the Commission.

April Tabor
Secretary (Acting)

SEAL

ISSUED: