

FTC Public Comment – FTC.GOV

From: Ken J. Wang, CEO

Organization: University Shopping Plaza Urban Renewal Corp., Newark, NJ

Date: 7/31/15

Re: Dollar Tree/Family Dollar File # 141-0207

CONCLUSION: The proposed consent agreement adversely affects the 330 landlords of the 330 Family Dollar Stores to be divested in the Dollar Tree acquisition.

NARRATIVE:

1. The net result of the divestiture is the elimination of an investment grade tenant, Family Dollar Stores, and the substitution of a start-up private equity company, Dollar Express LLC, with no credit standing and with an elevated risk of default. This works to the financial disadvantage of the 330 landlords in 35 states (“landlord group”). The divestiture is especially harmful to inner city urban landlords (e.g. New Jersey inner cities of Newark, Paterson, Elizabeth and East Orange) who are struggling to operate high risk retail properties in underserved urban markets and minority communities.
2. The terse response to the above concern is that Sycamore Partners, the sponsor of Dollar Express, is “very experienced” in retail industries. Witness rehabs of upscale chains such as Nine West, Coldwater Creek, and Aeropostale. However, Sycamore has no experience in start-ups, Dollar Stores, or urban markets. Dollar Express would be a very tiny company competing against the giants of the dollar store industry (see “fact sheet” attached).
3. The Assignment Clause of the standard Family Dollar Store lease provides little comfort. Dollar Tree states that they would be required to backstop the rent payments. However, because of the five year lease increments of the Family Dollar Store leases, many landlords will only have coverage for 1-2 years’ time remaining. In addition, the backstop probably does not cover percentage rents which may constitute 10%-30% of total rents. “The devil is in the details” and we have no indication that the FTC has examined a representative sample of the Family Dollar leases to get a complete picture of the impact of the divestiture.
4. Throughout the FTC’s negotiation of the consent agreement and the divestiture, the FTC failed to identify/recognize the landlord group as a legitimate stakeholder group in the transaction. The landlord group was, therefore, marginalized and denied a seat at the negotiating table in spite of having an estimated \$1.32 billion stake in the transaction. We are told that the divestiture agreement between Dollar Tree and Sycamore Partners is “confidential”. All parties refuse to divulge its essential features to the landlord group stakeholders. We are asked to put our faith in the mantra, “trust us”. We are forced to rely on scraps of information from the business press.

ACTION: FTC to consult with landlord group and to ensure that lease structures, rents, and lease risks are not adversely changed as a result of the divestiture.

INQUIRIES: We contacted the following individuals in an attempt to clarify the details of the acquisition:

Sean Pugh- FTC Attorney

Naomi Licker- FTC Senior Attorney

Jason Chatterjee- Sycamore Partners (Dollar Express LLC)

Kay Stockwell- Dollar Tree Inc., Asst./ General Counsel

We asked each the following set of prepared questions and each declined to answer, other than to refer to the question to the other parties:

1. May we have a copy of the acquisition agreement?
2. May we have a brief verbal summary of the main points of the acquisition agreement?
3. Would you provide us with a written explanation of the acquisition agreement and how the deal structure protects the interests of the 330 member landlord group (stakeholders)?
4. May we have a copy of the FTC internal discussion paper regarding the acquisition agreement?
5. May we have a copy of the transaction timetable—beginning point to end point?
6. Does FTC consider the 330 member landlord group to be stakeholders in the transaction?
7. Have any of the parties read/analyzed all, or a representative sample, of the 330 Family Dollar leases (notably the Assignment Clause)?
8. Do you think that Dollar Tree, FTC, and Sycamore Partners have considered the interests of the landlord group in structuring the deal?
9. Have you considered the increased lease default risk to landlords by replacing an investment grade tenant (Family Dollar) with a no-credit start-up entity (Dollar Express)?!
10. Why were none of the 5157 Dollar Tree Stores designated for sale? (All 330 stores designated for sale were Family Dollar Stores.)