

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

COMMISSIONERS: **Lina M. Khan, Chair**
 Noah Joshua Phillips
 Rebecca Kelly Slaughter
 Christine S. Wilson
 Alvaro M. Bedoya

_____)	
In the Matter of)	
)	
ARKO Corp.,)	DECISION AND ORDER
a corporation,)	Docket No. C-
)	
GPM Investments, LLC,)	
a limited liability company,)	
)	
GPM Southeast, LLC,)	
a limited liability company, and)	
)	
GPM Petroleum, LLC,)	
a limited liability company.)	
_____)	

DECISION

The Federal Trade Commission (“Commission”) initiated an investigation of the acquisition by GPM Southeast, LLC, and GPM Petroleum, LLC, directly controlled by GPM Investments, LLC, and indirectly controlled by ARKO Corp., (each a “Respondent” and collectively “Respondents”) of certain assets from Corrigan Oil Company. The Commission’s Bureau of Competition prepared and furnished to Respondents the Draft Complaint, which it proposed to present to the Commission for its consideration. If issued by the Commission, the Draft Complaint would charge Respondents with violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45 (collectively “Acts”).

Respondents and the Bureau of Competition executed an Agreement Containing Consent Order (“Consent Agreement”) containing (1) an admission by Respondents of all the jurisdictional facts set forth in the Draft Complaint, (2) a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in the Draft Complaint, or that the facts as alleged in the Draft Complaint, other than jurisdictional facts, are true, (3) waivers and other provisions as required by the Commission’s Rules, and (4) a proposed Decision and Order (“Order”).

The Commission considered the matter and determined that it had reason to believe that Respondents have violated the said Acts, and that a complaint should issue stating its charges in that respect. The Commission accepts the executed Consent Agreement and places it on the public record for a period of 30 days for the receipt and consideration of public comments. Now, 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 Order:

1. Respondent ARKO Corp. is a corporation 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 8565 Magellan Parkway, Suite 400, Richmond, Virginia 23227.
2. Respondent GPM Investments, 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 8565 Magellan Parkway, Suite 400, Richmond, Virginia 23227.
3. Respondent GPM Southeast, 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 8565 Magellan Parkway, Suite 400, Richmond, Virginia 23227.
4. Respondent GPM Petroleum, 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 8565 Magellan Parkway, Suite 400, Richmond, Virginia 23227.
5. The Federal Trade Commission has jurisdiction over the subject matter of this proceeding and over the Respondents, and the proceeding is in the public interest.

ORDER

I. Definitions

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

- A. “ARKO” means ARKO Corp., its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, divisions, groups, and affiliates controlled by ARKO Corp., including GPM Investments, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- B. “GPM Investments” means GPM Investments, LLC, its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, divisions, groups, and affiliates controlled by GPM Investments, LLC, including GPM

Southeast and GPM Petroleum, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.

- C. “GPM Southeast” means GPM Southeast, LLC, its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, divisions, groups, and affiliates controlled by GPM Southeast, LLC, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- D. “GPM Petroleum” means GPM Petroleum, LLC, its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, divisions, groups, and affiliates controlled by GPM Petroleum, LLC, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- E. “Corrigan” means Corrigan Oil Company, a corporation organized, existing, and doing business under and by virtue of the laws of the State of Michigan, with its executive offices and principal place of business located at 775 North Second Street #1, Brighton, Michigan 48116.
- F. “Commission” means the Federal Trade Commission.
- G. “Acquisition” means the acquisition consummated on May 18, 2021, pursuant to the Asset Purchase Agreement.
- H. “Asset Purchase Agreement” means the agreement entitled “Asset Purchase Agreement by and between GPM Southeast, LLC, Broyles Hospitality, LLC, and GPM Petroleum, LLC, as Purchaser, and Corrigan Oil Co., Express Stop Real Estate Holdings, LLC, Express Stop Real Estate Holdings II LLC, BMH Realty, LLC, and the Entities Listed on the Signature Pages Hereto, as Seller, dated as of March 8, 2021.”
- I. “Business Information” means books, records, data, and information, wherever located and however stored, used in or related to the Retail Fuel Business relating to the Reacquired Assets, including documents, written information, graphic materials, and data and information in electronic format, along with the knowledge of employees, contractors, and representatives. Business Information includes books, records, data, and information relating to sales, marketing, logistics, products and SKUs, pricing, promotions, advertising, personnel, accounting, business strategy, information technology systems, customers, suppliers, vendors, research and development, underground storage tank (“UST”) system registrations and reports, registrations, licenses, and permits, operations, and all other information used in the operation of the Retail Fuel Business relating to the Reacquired Assets.
- J. “Closing Date” means the date on which Corrigan acquires the Reacquired Assets, which is on or prior to June 28, 2022, as defined in the Reacquisition Agreement.

- K. “Confidential Information” means all Business Information not in the public domain, except for any information that was or becomes generally available to the public other than as a result of disclosure by Respondents.
- L. “Contracts” means all agreements, leases, license agreements, consensual obligations, promises or undertakings (whether written or oral and whether express or implied), whether or not legally binding with third parties.
- M. “Equipment” means all tangible personal property (other than Inventories) of every kind owned or leased by Respondents in connection with the operation of any Reacquired Location, including, but not limited to all: fixtures, furniture, computer equipment and third-party software, office equipment, telephone systems, security systems, registers, credit card systems, credit card invoice printers and electronic point of sale devices, money order machines and money order stock, shelving, display racks, walk-in boxes, furnishings, signage, canopies, fuel dispensing equipment, UST systems (including all fuel storage tanks, fill holes and fill hole covers and tops, pipelines, vapor lines, pumps, hoses, Stage I and Stage II vapor recovery equipment, containment devices, monitoring equipment, cathodic protection systems, and other elements associated with any of the foregoing), parts, tools, supplies, and all other items of equipment or tangible personal property of any nature or other systems used in the operation of any of the Reacquired Locations, together with any express or implied warranty by the manufacturers or sellers or lessors of any item or component part, to the extent such warranty is transferrable, and all maintenance records and other related documents.
- N. “Fuel Products” means refined petroleum gasoline and diesel products.
- O. “Governmental Authorization” means any consent, license, registration, or permit issued, granted, given, or otherwise made available by or under the authority of any governmental body or pursuant to any legal requirement.
- P. “Inventories” means all inventories of every kind and nature for retail sale associated with any Reacquired Location, including: (1) Fuel Products, kerosene, and other petroleum-based motor fuels stored in bulk and held for sale to the public; and (2) usable, non-damaged and non-out-of-date products and items held for sale to the public, including, without limitation, food-related items requiring further processing, packaging, or preparation and ingredients from which prepared foods are made to be sold.
- Q. “Lease Agreements” mean the following agreements:
1. Lease Agreement by and among Bay Road Express Stop #2, LLC and GPM Southeast, LLC, dated May 18, 2021, and all amendments, exhibits, attachments, agreements, and schedules thereto;
 2. Lease Agreement by and among M-52 Express Stop #11, LLC and GPM Southeast, LLC, dated May 18, 2021, and all amendments, exhibits, attachments, agreements, and schedules thereto;

3. Lease Agreement by and among State Street Express Stop #13, LLC and GPM Southeast, LLC, dated May 18, 2021, and all amendments, exhibits, attachments, agreements, and schedules thereto;
 4. Lease Agreement by and among N. Dort Express Stop, LLC and GPM Southeast, LLC, dated May 18, 2021, and all amendments, exhibits, attachments, agreements, and schedules thereto; and
 5. Lease Agreement by and among Mason Express Stop, LLC and GPM Southeast, LLC, dated May 18, 2021, and all amendments, exhibits, attachments, agreements, and schedules thereto.
- R. “Person” means any individual, partnership, corporation, business trust, limited liability company, limited liability partnership, joint stock company, trust, unincorporated association, joint venture or other entity or a governmental body.
- S. “Prior Approval Location” means a Retail Fuel Business within a 3-mile driving distance from a Reacquired Location.
- T. “Reacquired Assets” means Respondent’s right, title, and interest in and to all assets relating to the Retail Fuel Business operated at the Reacquired Locations. These assets include the following:
1. All Equipment, including any Equipment removed from any Reacquired Locations since May 18, 2021 and not replaced;
 2. All Inventories;
 3. Rights under any and all Contracts, at the option of Corrigan;
 4. All Governmental Authorizations and all pending applications therefor or renewals thereof, to the extent transferable;
 5. All Business Information; and
 6. All going concern value and goodwill.
- Provided, however,* that the Reacquired Assets need not include inventory bearing any trademarks or trade names of Respondents.
- U. “Reacquired Locations” means the Retail Fuel Business operated by Respondents as of May 18, 2021, at the following locations:
1. 15801 South Oakley, Chesaning, Michigan, 48616;

2. 551 W. Columbia Street, Mason, Michigan, 48854;
 3. 8010 North Dort Highway, Mount Morris, Michigan, 48458;
 4. 2791 Bay Road, Saginaw, Michigan, 48602; and
 5. 3540 State Street, Saginaw, Michigan, 48602.
- V. “Reacquisition Agreement” means the Termination of Lease, Assignment, and Purchase Agreement between Respondent GPM Southeast and M-52 Express Stop #11, LLC, State Street Express Stop #13, LLC, N. Dort Express Stop, LLC, Mason Express Stop, LLC, and Bay Road Express Stop #2, LLC, dated April 27, 2022, and all amendments, exhibits, attachments, agreements, and schedules thereto, attached to this Order as Nonpublic Appendix A.
- W. “Relevant Party” means any Person from whom a Respondent acquires a Retail Fuel Business or has acquired a Retail Fuel Business in the past 5 years, and with whom Respondent has entered into an agreement or understanding, whether written or oral, that restricts the Person from competing with a Retail Fuel Business.
- X. “Retail Fuel Business” means all business activities related to (1) the retail sale of Fuel Products, and (2) the operation of any associated convenience store and other business or service.
- Y. “Retained Assets” means Corrigan’s right, title, and interest in all assets relating to the Reacquired Locations from May 18, 2021, to the Closing Date, including all real property interests (including fee simple interests and real property leasehold interests), easements, appurtenances, buildings and other physical structures, facilities, and improvements located thereon, owned, leased, or otherwise held.

II. Reacquisition and Prohibitions

IT IS FURTHER ORDERED that:

- A. No later than the Closing Date, Respondents shall divest the Reacquired Assets, as ongoing businesses, absolutely and in good faith, to Corrigan.
- B. No later than the Closing Date, Respondents shall terminate the Lease Agreements and Respondent GPM Southeast shall not lease any Retained Assets from Corrigan.
- C. Respondents shall not, without prior approval of the Commission, hold or acquire, directly or indirectly, through subsidiaries or otherwise, any leasehold, ownership interest, commission franchise interest, or any other interest, in whole or in part, in any Retail Fuel Business in any Prior Approval Location.

- D. Respondents shall not restrict Corrigan from competing against Respondents' Retail Fuel Business at any location, other than the locations acquired from Corrigan pursuant to the Acquisition and excluding the Reacquired Locations.
- E. Respondents shall not restrict Corrigan from competing for more than 3 years from the date of the Acquisition or outside a 3-mile radius around the location of any Retail Fuel Business acquired by Respondents pursuant to the Acquisition, excluding the Reacquired Locations.
- F. No later than the Closing Date, Respondents shall execute the Amended and Restated Non-Competition and Non-Solicitation Agreement with Corrigan, included in Nonpublic Appendix A as part of the Reacquisition Agreement, that replaces in its entirety the Non-Competition and Non-Solicitation Agreement attached as an exhibit to the Asset Purchase Agreement.
- G. In connection with acquiring any Retail Fuel Business from a Person, Respondents shall not enter into or enforce any agreement or understanding, whether written or oral, that restricts the Person from competing with Respondents' Retail Fuel Business at any location, other than a restriction limited to a designated area around a location acquired from such Person.
- H. Respondents shall provide, within 20 days of the issuance of this Order, written notification in the form of Appendix B to this Order to all Relevant Parties and going forward shall provide such notification to any Relevant Party to whom the Respondents have not previously provided notification under this Paragraph II.H.

III. Asset Maintenance

IT IS FURTHER ORDERED that until Respondents fully transfer each of the Reacquired Locations and related Reacquired Assets to the Acquirer, Respondents shall ensure that each of the Reacquired Locations and related Reacquired Assets are operated and maintained in the ordinary course of business consistent with past practices, and shall:

- A. Operate the Retail Fuel Business relating to the Reacquired Assets in the ordinary course of business consistent with past practices and take all actions necessary to maintain the full economic viability, marketability, and competitiveness of such Retail Fuel Business;
- B. Prevent the destruction, removal, wasting, deterioration, closing, or impairment (other than as a result of ordinary wear and tear) of the Reacquired Assets, including:
 - 1. Maintaining, repairing, and replacing any Equipment to the extent and in a manner consistent with past practices;
 - 2. Maintaining Inventory levels in a manner consistent with past practices;

3. Not terminating, canceling, renewing, or amending any Contract, except as consistent with past practices; and
 4. Not entering any Contract that would restrain or restrict the ability of Corrigan to compete against Respondents;
- C. Make any payment required to be paid under any Contract when due, and otherwise satisfy all liabilities and obligations associated with the Reacquired Assets;
 - D. Provide the Retail Fuel Business relating to the Reacquired Assets with sufficient funds to operate at least at current rates of operation, to meet all capital calls, to perform routine or necessary maintenance, to repair or replace facilities and equipment, and to carry on at least at their scheduled pace all capital projects, business plans, development projects, promotional activities, and marketing activities;
 - E. Provide resources as may be necessary to respond to competition against the Retail Fuel Business relating to the Reacquired Assets, prevent diminution in sales of such Retail Fuel Business, and maintain the competitive strength of such Retail Fuel Business;
 - F. Not reduce operating hours;
 - G. Not reduce, change, or modify in any material respect, the level of marketing, promotional, pricing, or advertising practices, programs, and policies for the Retail Fuel Business related to the Reacquired Assets, other than changes in the ordinary course of business consistent with changes made at Respondents' other businesses that Respondents will not divest;
 - H. Not target, encourage, or convert customers of the Retail Fuel Business relating to the Reacquired Assets to become customers of Respondents' other businesses; provided, however, that nothing in this subparagraph shall prevent Respondents from engaging in advertising, marketing, and promotion activities: (i) generally applicable to all of Respondents' businesses, or (ii) in the ordinary course of business and in accordance with past practice;
 - I. Provide support services at levels customarily provided by Respondents;
 - J. Maintain all licenses, permits, approvals, authorizations, or certifications related to or necessary for the operation of the Retail Fuel Business relating to the Reacquired Assets, and otherwise operate such Retail Fuel Business in accordance and compliance with all regulatory obligations and requirements;
 - K. Not sell, transfer, encumber, or otherwise impair the Reacquired Assets (other than in the manner prescribed in the Orders);
 - L. Not take any action that lessens the full economic viability, marketability, or competitiveness of the Reacquired Assets;

- M. Not terminate the operations of the Retail Fuel Business relating to the Reacquired Assets;
- N. Preserve the existing relationships with suppliers, customers, employees, governmental authorities, vendors, landlords, site operators, and others having business relationships with the Retail Fuel Business relating to the Reacquired Assets;
- O. Maintain the working conditions, staffing levels, and a work force of equivalent size, training, and expertise associated with the Retail Fuel Business relating to the Reacquired Assets, including:
 - 1. When vacancies occur, replacing the employees in the regular and ordinary course of business, in accordance with past practice; and
 - 2. Not transferring any employees from the Retail Fuel Business relating to the Reacquired Assets to any of Respondents' assets or businesses.

Provided, however, that Respondents may take actions that Corrigan has requested or agreed to in writing and that has been approved in advance by Commission staff, in all cases to facilitate the Corrigan's reacquisition of the Reacquired Locations and related Reacquired Assets and consistent with the purposes of this Order.

IV. Confidential Information

IT IS FURTHER ORDERED that:

- A. Respondents shall not disclose (including to its employees) or use for any reason or purpose, any Confidential Information received or maintained by Respondents relating to the Reacquired Assets; *provided, however,* that Respondents may disclose or use such Confidential Information in the course of:
 - 1. Performing its obligations or as permitted under this Order; or
 - 2. Complying with financial reporting requirements, obtaining legal advice, prosecuting or defending legal claims, investigations, or enforcing actions threatened or brought against any Reacquired Location, or as required by law or regulation, including any applicable securities exchange rules or regulations.
- B. If disclosure or use of any Confidential Information is permitted to Respondents' employees or to any other Person under Paragraph IV.A of this Order, Respondents shall limit such disclosure or use (1) only to the extent such information is required, (2) only to those employees or Persons who require such information for the purposes permitted under Paragraph IV.A, and (3) only after such employees or Persons have signed an agreement to maintain the confidentiality of such information.

- C. Respondents shall enforce the terms of this Section IV and take necessary actions to ensure that its employees and other Persons comply with the terms of this Section IV, including implementing access and data controls, training its employees, and other actions that Respondents would take to protect its own proprietary information.

V. Divestiture Trustee

IT IS FURTHER ORDERED that:

- A. If Respondents have not fully complied with the obligations to assign, grant, license, divest, transfer, deliver, or otherwise convey the Reacquired Assets as required by this Order, the Commission may appoint a trustee (“Divestiture Trustee”) to assign, grant, license, divest, transfer, deliver, or otherwise convey these assets in a manner that satisfies the requirements of this Order. In the event that the Commission or the Attorney General brings an action pursuant to § 5(*l*) of the Federal Trade Commission Act, 15 U.S.C. § 45(*l*), or any other statute enforced by the Commission, Respondents shall consent to the appointment of a Divestiture Trustee in such action to assign, grant, license, divest, transfer, deliver, or otherwise convey these assets. Neither the appointment of a Divestiture Trustee nor a decision not to appoint a Divestiture Trustee under Section V shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed Divestiture Trustee, pursuant to § 5(*l*) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by the Respondents to comply with this Order.
- B. The Commission shall select the Divestiture Trustee, subject to the consent of Respondents which consent shall not be unreasonably withheld. The Divestiture Trustee shall be a Person with experience and expertise in acquisitions and divestitures. If Respondents have not opposed, in writing, including the reasons for opposing, the selection of any proposed Divestiture Trustee within 10 days after notice by the staff of the Commission to Respondents of the identity of any proposed Divestiture Trustee, Respondents shall be deemed to have consented to the selection of the proposed Divestiture Trustee.
- C. Not later than 10 days after the appointment of a Divestiture Trustee, Respondents shall execute a trust agreement that, subject to the prior approval of the Commission, transfers to the Divestiture Trustee all rights and powers necessary to permit the Divestiture Trustee to effect the relevant divestitures required by this Order. Any failure by Respondents to comply with a trust agreement approved by the Commission shall be a violation of this Order.
- D. If a Divestiture Trustee is appointed by the Commission or a court pursuant to Section V, Respondents shall consent to the following terms and conditions regarding the Divestiture Trustee’s powers, duties, authority, and responsibilities:

1. Subject to the prior approval of the Commission, the Divestiture Trustee shall have the exclusive power and authority to assign, grant, license, divest, transfer, deliver, or otherwise convey the assets that are required by this Order to be assigned, granted, licensed, divested, transferred, delivered, or otherwise conveyed;
2. The Divestiture Trustee shall have one year from the date the Commission approves the trustee agreement described herein to accomplish the divestitures, which shall be subject to the prior approval of the Commission. If, however, at the end of the one-year period, the Divestiture Trustee has submitted a plan of divestiture or the Commission believes that the divestitures can be achieved within a reasonable time, the divestiture period may be extended by the Commission,

Provided, however, the Commission may extend the divestiture period only 2 times;
3. Subject to any demonstrated legally recognized privilege, the Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities related to the relevant assets that are required to be assigned, granted, licensed, divested, delivered, or otherwise conveyed by this Order and to any other relevant information, as the Divestiture Trustee may request. Respondents shall develop such financial or other information as the Divestiture Trustee may request and shall cooperate with the Divestiture Trustee. Respondents shall take no action to interfere with or impede the Divestiture Trustee's accomplishment of the divestitures. Any delays in divestitures caused by Respondents shall extend the time for divestitures under Section V in an amount equal to the delay, as determined by the Commission or, for a court-appointed Divestiture Trustee, by the court;
4. The Divestiture Trustee shall use commercially reasonable best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Respondents' absolute and unconditional obligation to divest expeditiously and at no minimum price. The divestitures shall be made in the manner and to acquirers that receive the prior approval of the Commission as required by this Order,

Provided, however, if the Divestiture Trustee receives bona fide offers from more than one acquiring person for a divestiture, and if the Commission determines to approve more than one such acquiring person for the divestiture, the Divestiture Trustee shall divest to the acquiring person selected by Respondents from among those approved by the Commission,

Provided further, however, that Respondents shall select such person within 5 days of receiving notification of the Commission's approval;

5. The Divestiture Trustee shall serve, without bond or other security, at the cost and expense of Respondents, on such reasonable and customary terms and conditions as the Commission or a court may set. The Divestiture Trustee shall have the authority to employ, at the cost and expense of Respondents, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the Divestiture Trustee's duties and responsibilities. The Divestiture Trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission of the account of the Divestiture Trustee, including fees for the Divestiture Trustee's services, all remaining monies shall be paid at the direction of the Respondents, and the Divestiture Trustee's power shall be terminated. The compensation of the Divestiture Trustee shall be based at least in significant part on a commission arrangement contingent on the divestiture of all of the relevant assets that are required to be divested by this Order;
 6. Respondents shall indemnify the Divestiture Trustee and hold the Divestiture Trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Divestiture Trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from gross negligence or willful misconduct by the Divestiture Trustee;
 7. The Divestiture Trustee shall have no obligation or authority to operate or maintain the Reacquired Assets required to be divested by this Order;
 8. The Divestiture Trustee shall report in writing to Respondents and to the Commission every 30 days concerning the Divestiture Trustee's efforts to accomplish the divestiture; and
 9. Respondents may require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, attorneys, and other representatives and assistants to sign a customary confidentiality agreement,

Provided, however, that such agreement shall not restrict the Divestiture Trustee from providing any information to the Commission.
- E. The Commission may, among other things, require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, attorneys, and other representatives and assistants to sign an appropriate confidentiality agreement related to Commission materials and information received in connection with the performance of the Divestiture Trustee's duties.

- F. If the Commission determines that a Divestiture Trustee has ceased to act or failed to act diligently, the Commission may appoint a substitute Divestiture Trustee in the same manner as provided in Section V.
- G. The Commission or, in the case of a court-appointed Divestiture Trustee, the court, may on its own initiative or at the request of the Divestiture Trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestitures and other obligations or action required by this Order.

VI. Compliance Reports

IT IS FURTHER ORDERED that Respondents shall submit verified written reports (“compliance reports”) in accordance with the following:

- A. Respondents shall submit a compliance report 30 days after the entry of this Order; one year after the entry of this Order; and annually thereafter for the next 10 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 Respondents are in compliance with the Order. Conclusory statements that Respondents have complied with its obligations under this Order are insufficient. Respondents shall include in their reports, among other information or documentation that may be necessary to demonstrate compliance, as well as a full description of the measures Respondent has implemented or plans to implement to ensure that Respondents have complied or will comply with each section of the Order, and, to the extent not provided in a prior compliance report, shall submit:
 - 1. An executed copy of the Asset Purchase Agreement, the Reacquisition Agreement, and all amendments or revisions thereto, including the amendment executed pursuant to Paragraph II.F;
 - 2. For any agreement related to the purchase of a Retail Fuel Business from a Person that restricts the Person from competing with any Retail Fuel Business, that Respondents contend does not violate Paragraph II.G of this Order, the following information: the parties to the agreement, the date the agreement was entered, a description of the acquired assets, and the nature and scope of the noncompete agreement; and
 - 3. A list of all Relevant Parties who received the notice pursuant to Paragraph II.H of this Order, together with proof of service of the notice.
- C. For a period of 5 years after filing a compliance report, Respondents shall retain all material written communications with each party identified in each compliance report and all non-privileged internal memoranda, reports, and recommendations concerning fulfilling Respondents’ obligations under this Order during the period covered by such

compliance report. Respondents shall provide copies of these documents to Commission staff upon request.

- D. Respondents 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. Respondents shall file its compliance reports with the Secretary of the Commission at ElectronicFilings@ftc.gov and the Compliance Division at bccompliance@ftc.gov, as required by Commission Rule 2.41(a), 16 C.F.R. § 2.41(a).

VII. Change in Respondent

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

- A. The proposed dissolution of ARKO Corp., GPM Southeast, LLC, or GPM Petroleum, LLC;
- B. The proposed acquisition, merger, or consolidation of ARKO Corp., GPM Southeast, LLC, or GPM Petroleum, LLC; or
- C. Any other change in Respondents, 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 the purpose of determining or securing compliance with this Order, and subject to any legally recognized privilege, upon written request and 5 days' notice to Respondents, made to its principal place of business as identified in this Order, registered office of its United States subsidiary, or its headquarters office, the Respondent shall, without restraint or interference, permit any duly authorized representative of the Commission:

- A. Access, during business office hours of Respondents 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 2.71(a)(1) and (2), 16 C.F.R. § 2.71(a)(1) and (2), in the possession or under the control of the Respondents related to compliance with this Order, which copying services shall be provided by the Respondents at the request of the authorized representative of the Commission and at the expense of the Respondents; or
- B. To interview officers, directors, or employees of Respondents, 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 to competition the Commission alleged in its Complaint and ensure that Corrigan can operate the Reacquired Assets at least equivalent in all material respects to the manner in which the Reacquired Assets were operated prior to the Acquisition.

X. Term

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

By the Commission.

April J. Tabor
Secretary

SEAL:
ISSUED:

Nonpublic Appendix A

Reacquisition Agreement

[Redacted From the Public Record Version, But Incorporated By Reference]

Appendix B

Notice to Affected Persons

[Respondent's letterhead]

[Name and address of recipient]

Dear [Name of recipient]:

This letter concerns a Decision and Order entered against ARKO Corp., GPM Southeast, LLC, and GPM Petroleum, LLC, by the Federal Trade Commission in Docket No. C-[X]. In connection with the acquisition of any Retail Fuel Business from a Person, the Order bars ARKO, GPM Southeast, and GPM Petroleum from entering into or enforcing any agreement that restricts the Person from competing with Respondents' Retail Fuel Business at any location, other than a location acquired from such Person.

A copy of the Order is attached to this letter. To the extent anything in this letter differs from the terms of the Order, the Order supersedes this letter. Further, capitalized terms in this letter have the same meaning as those terms do in the Order.

If you have concerns about whether ARKO, GPM Southeast, or GPM Petroleum are complying with their obligations under the Order, you may contact us at **[contact information for Respondents]**. You may also contact the Federal Trade Commission at bccompliance@ftc.gov.

Sincerely,

[name and title]