

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civil No.: 1: 00CV02824
)	
v.)	Filed: November 21, 2000
)	
GEORGIA-PACIFIC CORPORATION, and)	
FORT JAMES CORPORATION)	
)	
Defendants.)	
)	

HOLD SEPARATE STIPULATION AND ORDER

It is hereby stipulated and agreed by and between the undersigned parties, subject to approval and entry by the Court, that:

I.

DEFINITIONS

As used in this Hold Separate Stipulation and Order:

- A. "Purchaser" or "Purchasers" means the entity or entities to whom defendants divest the Georgia-Pacific AFH Tissue Business.

- B. "AFH Tissue Product(s)" means paper napkins, paper towels, and bathroom tissue sold into the away-from-home distribution channel, and all tissue product dispenser systems sold or leased into the away-from-home distribution channel or to away-from-home tissue customers, except for the proprietary tissue product dispenser systems and components sold or leased under

the Cormatic and Ultimatic lines and all tangible and intangible assets necessary for the production, marketing and sale of the Cormatic and Ultimatic tissue product dispenser systems and components.

C. "Fort James" means defendant Fort James Corporation, a Virginia corporation with its headquarters in Deerfield, Illinois, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

D. "Georgia-Pacific" means defendant Georgia-Pacific Corporation, a Georgia corporation with its headquarters in Atlanta, Georgia, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

E. "Georgia-Pacific Tissue LLC" or "GPT" means Georgia-Pacific Tissue LLC, a limited liability company incorporated in Delaware with its headquarters in Atlanta, Georgia, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

F. "Georgia-Pacific AFH Tissue Business" means the business of developing, manufacturing, marketing, and selling AFH Tissue Products as conducted by GPT, including, but not limited to:

- (1) all tangible assets used in the research, development, production, marketing, servicing or sale of any AFH Tissue Product that Georgia-Pacific Tissue LLC produced, sold, sells, has plans to sell, or leases, including, but not limited to: research and development activities; all

manufacturing equipment, tooling, and fixed assets for the tissue paper making mills located in Menasha, Wisconsin, Flagstaff, Arizona, Alsip, Illinois, and Gary, Indiana, and the tissue converting facilities located in Neenah, Wisconsin, Bellemont, Arizona, Brattleboro, Vermont, Greenwich, New York, and LaGrange, Georgia (but excluding Crossett, Arkansas, Palatka, Florida, and Toluca, Mexico and other Mexican property tangible and intangible); personal property, inventory, office furniture, materials, supplies, and other tangible property used to manufacture or sell AFH Tissue Products; all licenses, permits and authorizations issued by any governmental or standard setting organization relating to the manufacture or sale of any AFH Tissue Product; all contracts, agreements, leases, commitments, certifications, and understandings used in the manufacture or sale of any AFH Tissue Product, including supply agreements; all customer lists, contracts, accounts, and credit records; and all mill operations reports and other records relevant to AFH Tissue Products and the Georgia-Pacific AFH Tissue Business; and

- (2) all intangible assets used in the research, development, production, marketing, servicing or sale of any AFH Tissue Product that Georgia-Pacific Tissue LLC produced, sold, sells, or has plans to sell, or leases, including, but not limited to: all legal rights, including intellectual property rights, associated with AFH Tissue Products, including trademarks, trade names, service names, service marks, designs, trade dress, patents,

copyrights and all licenses and sublicenses to such intellectual property; all legal rights to use the brand names controlled by GPT, including, but not limited to “Park Avenue”, “Main Street”, “Second Nature”, and “Coronet”, and any derivations thereof; all trade secrets; all technical information, computer software and related documentation, and know-how, including, but not limited to, recipes and formulas, and information relating to plans for, improvements to, or line extensions of, the products; all research, packaging, sales, marketing, advertising and distribution know-how and documentation, including marketing and sales data, packaging designs, quality assurance and control procedures; all manuals and technical information Georgia-Pacific Tissue LLC provided to its own employees, customers, suppliers, agents or licensees; all specifications for materials, and safety procedures for the handling of materials and substances; all research information and data concerning historic and current research and development efforts, including, but not limited to, designs of experiments and the results of successful and unsuccessful designs and experiments, and all employment contracts and relationships, as existing on July 17, 2000.

II.

OBJECTIVES

The Final Judgment filed in this case is meant to ensure defendants’ prompt divestiture of the Georgia-Pacific AFH Tissue Business for the purpose of assuring the establishment of one or more viable competitors in the away-from-home tissue industry capable of competing effectively

in supplying away-from-home tissue products to national accounts and to remedy the anticompetitive effects that the United States alleges would otherwise result from Georgia-Pacific's acquisition of Fort James Corporation. This Hold Separate Stipulation and Order ensures, prior to such divestitures, that the Georgia-Pacific AFH Tissue Business operates as a competitively independent, economically viable, and ongoing business concern that will remain independent and uninfluenced by the consummation of Georgia-Pacific's acquisition of Fort James Corporation, and that competition is maintained during the pendency of the ordered divestitures.

III.

JURISDICTION AND VENUE

The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

IV.

COMPLIANCE WITH AND ENTRY OF FINAL JUDGMENT

A. The parties stipulate that a Final Judgment in the form attached hereto as Exhibit A may be filed with and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that 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 thereof on defendants and by filing that notice with the Court.

B. Defendants shall abide by and comply with the provisions of the proposed Final

Judgment, pending the Judgment's entry 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 as though the same were in full force and effect as an order of the Court.

C. Defendants shall not consummate the transaction sought to be enjoined by the Complaint herein before the Court has signed this Hold Separate Stipulation and Order.

D. 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.

E. In the event (1) the United States has withdrawn its consent, as provided in Section IV(A) above, or (2) the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of 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 shall be without prejudice to any party in this or any other proceeding.

F. Defendants represent that the divestiture ordered in the proposed Final Judgment can and will be made, and that 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.

V.

HOLD SEPARATE PROVISIONS

Until the divestitures required by the Final Judgment have been accomplished:

A. Defendants shall preserve, maintain, and continue to operate the Georgia-Pacific AFH Tissue Business as an independent, ongoing, economically viable competitive business, with management, sales and operations of such assets held entirely separate, distinct and apart from those of Georgia-Pacific's other operations. Except as provided in this paragraph, Georgia-Pacific shall not coordinate its production, marketing or terms of sale of any products produced by or sold by or through the Georgia-Pacific AFH Tissue Business with the sale of any other products. In no event shall Georgia-Pacific coordinate or integrate the production, marketing, or terms of sale of any products, or the operation of the facilities, acquired as a result of the transaction with Fort James with the products, or facilities used to manufacture the products, produced by or sold through the Georgia-Pacific AFH Tissue Business. Notwithstanding the foregoing provisions, Georgia-Pacific is not prohibited from continuing its historical, regular course of business, system-wide allocation of the manufacture of tissue stock parent rolls and converted tissue products among Georgia-Pacific mills and machines, provided that Georgia-Pacific continues to support and maintain the Georgia-Pacific AFH Tissue Business as an independent, ongoing, economically viable and active competitor in the AFH Tissue Business as required by this Hold Separate Stipulation and Order (including efforts to maintain and increase the sales and revenues of the Georgia-Pacific AFH Tissue Business required under Section V.C). Within twenty (20) days after the entry of this Hold Separate Stipulation and Order, defendants will inform the United States of the steps defendants have taken to comply with this Hold Separate Stipulation and Order.

B. Georgia-Pacific shall take all steps necessary to ensure that (1) the Georgia-Pacific AFH Tissue Business will be maintained and operated as an independent, ongoing, economically

viable and active competitor in the away-from-home tissue industry; (2) management of the Georgia-Pacific AFH Tissue Business will not be influenced by Georgia-Pacific or Fort James; and (3) the books, records, competitively sensitive sales, marketing and pricing information, and decision-making concerning production, distribution or sales of products by or under any of the Georgia-Pacific AFH Tissue Business will be kept separate and apart from Georgia-Pacific's other operations.

C. Defendants shall use all reasonable efforts to maintain and increase the sales and revenues of the products produced by or sold under the Georgia-Pacific AFH Tissue Business, and shall maintain at 2000 levels or previously approved levels for 2001, whichever are higher, all promotional, advertising, sales, technical assistance, marketing and merchandising support for the Georgia-Pacific AFH Tissue Business.

D. Georgia-Pacific shall provide sufficient working capital and lines and sources of credit to continue to maintain the Georgia-Pacific AFH Tissue Business as an economically viable and competitive, ongoing business, consistent with the requirements of Sections V(A) and V(B).

E. Georgia-Pacific shall take all steps necessary to ensure that all the assets of the Georgia-Pacific AFH Tissue Business are fully maintained in operable condition at no less than current capacity and sales, and shall maintain and adhere to normal repair and maintenance schedules for those assets.

F. Defendants shall not, except as part of a divestiture approved by the United States in accordance with the terms of the proposed Final Judgment, remove, sell, lease, assign, transfer, pledge or otherwise dispose of any of the Georgia-Pacific AFH Tissue Business.

G. Defendants shall maintain, in accordance with sound accounting principles,

separate, accurate and complete financial ledgers, books and records that report on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues and income of the Georgia-Pacific AFH Tissue Business.

H. Defendants shall take no action that would jeopardize, delay, or impede the sale of the Georgia-Pacific AFH Tissue Business.

I. Georgia-Pacific's employees with primary responsibility for the Georgia-Pacific AFH Tissue Business shall not be transferred or reassigned to other areas within the company except for transfer bids initiated by employees pursuant to defendants' regular, established job posting policy. Defendant shall provide the United States with ten (10) calendar days notice of such transfer.

J. Prior to consummation of their transaction, defendants shall appoint Lee M. Bingham to oversee the Georgia-Pacific AFH Tissue Business, and to be responsible for defendants' compliance with this section. This person shall have complete managerial responsibility for the Georgia-Pacific AFH Tissue Business, subject to the provisions of this Final Judgment. In the event such person is unable to perform his duties, defendants shall appoint, subject to the approval of the United States, a replacement within ten (10) working days. Should defendants fail to appoint a replacement acceptable to the United States within this time period, the United States shall appoint a replacement.

K. Defendants shall take no action that would interfere with the ability of any trustee appointed pursuant to the Final Judgment to monitor and complete the divestiture pursuant to the Final Judgment to a purchaser or purchasers acceptable to the United States.

L. This Hold Separate Stipulation and Order shall remain in effect until

consummation of the divestiture required by the proposed Final Judgment or until further order of the Court.

Dated: November _21_, 2000

Respectfully submitted,

FOR PLAINTIFF
UNITED STATES OF AMERICA

FOR DEFENDANT
GEORGIA-PACIFIC CORPORATION

_____/“s”/
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_____/“s”/
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O R D E R

IT IS SO ORDERED by the Court, this _21st_ day of November, 2000.

_____/“s”/
United States District Judge