

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,  
c/o Department of Justice  
Washington, D.C. 20530  
Plaintiff,

v.

PENNZOIL COMPANY  
Pennzoil Place  
P.O. Box 2967  
Houston, TX 77252-2967  
Defendant.

Civil Action No. 1:94CV02077

Filed: September 26, 1994

COMPLAINT FOR CIVIL PENALTIES FOR VIOLATION OF PREMERGER  
REPORTING REQUIREMENTS OF THE HART-SCOTT-RODINO ACT

The United States of America, Plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, and at the request of the Federal Trade Commission, brings this civil action to obtain monetary relief in the form of a civil penalty against the Defendant named herein, and alleges as follows:

JURISDICTION AND VENUE

1. This Complaint is filed and these proceedings are instituted under Section 7A of the Clayton Act, 15 U.S.C. § 18a, commonly known as Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("HSR Act"), to recover a civil penalty for a violation of the HSR Act.

2. This Court has jurisdiction over the Defendant and over the subject matter of this action pursuant to section (g) of the HSR Act, 15 U.S.C. § 18a(g), and 28 U.S.C. §§ 1331, 1337(a), 1345 and 1355.

3. Venue in this District is proper pursuant to 28 U.S.C. §§ 1391(b), 1391(c), 1395(a) and Section 12 of the Clayton Act, 15 U.S.C. § 22. Venue is also proper by virtue of the Defendant's consent, in the Stipulation relating hereto, to the maintenance of this action and entry of the final Judgment in this District.

THE DEFENDANT

4. Defendant Pennzoil Company ("Pennzoil") is a Delaware corporation with principal offices in Houston, Texas. Pennzoil is an integrated oil and gas company engaged in the exploration and production, processing and refining and marketing of oil and gas and refined petroleum products, and mining and marketing of sulphur in the United States.

OTHER RELEVANT ENTITY

5. Chevron Corporation ("Chevron") is a corporation incorporated in Delaware with principal offices in San Francisco, California. Chevron is an integrated oil and gas company engaged in the exploration for, and production of, oil and gas in the United States and internationally, the transportation and sale of petroleum products, the manufacturing and sale of petrochemical products, the development of mineral resources, and land ownership.

## THE HART-SCOTT-RODINO ACT AND RULES

6. The HSR Act prohibits certain acquisitions of voting securities or assets until notification has been filed with the Department of Justice and the Federal Trade Commission and a waiting period has expired. The notification and waiting period are intended to give those federal antitrust agencies prior notice of, and information about, proposed transactions. The waiting period is also designed to provide the antitrust agencies an opportunity to investigate proposed transactions and determine whether to seek an injunction to prevent transactions that may violate the antitrust laws.

7. The notification and waiting period requirements of the HSR Act apply to an acquisition when the HSR Act's size-of-person and commerce tests are met and, as a result of such acquisition, the acquiring person would hold an aggregate total amount of the voting securities and assets of the acquired person in excess of \$15 million, 15 U.S.C. § 18a(a)(3), unless the acquiring person can demonstrate the applicability of one or more of the exceptions to the requirements of the HSR Act.

8. The HSR Act and the regulations promulgated thereunder, 16 C.F.R. § 800 et seq. ("HSR Rules") exempt certain classes of acquisitions from the reporting and waiting period requirements of the HSR Act. Section (c)(9) of the HSR Act and section 802.9 of the HSR Rules, 16 C.F.R. § 802.9, exempt acquisitions made solely for the purpose of investment, if the acquiring person

would hold ten percent or less of the outstanding voting securities of the issuer.

9. Where an acquisition is subject to the HSR Act, the ultimate parent entity of the acquiring entity and acquired entity are each obligated by the HSR Act and HSR Rules to file, or have filed on its behalf, premerger notification and report forms with the Federal Trade Commission and the Department of Justice and to observe the required waiting period before consummating the acquisition. 16 C.F.R. § 803.2.

10. Pursuant to section (g)(1) of the HSR Act, 15 U.S.C. § 18a(g)(1), any person who fails to comply with any provision of the HSR Act shall be liable to the United States for a civil penalty of not more than \$10,000 per day for each day during which that person is in violation.

#### VIOLATION ALLEGED

11. At all times relevant to this Complaint, Defendant Pennzoil and Chevron were engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. § 12, and section (a)(1) of the HSR Act, 15 U.S.C. § 18a(a)(1).

12. At all times relevant to this Complaint, Defendant Pennzoil and Chevron had sales or assets above the thresholds established by section (a) of the HSR Act, 15 U.S.C. § 18a(a). Defendant Pennzoil had annual sales in excess of \$100,000,000, and Chevron had annual sales in excess of \$100,000,000.

13. In early September 1989, Pennzoil began buying Chevron voting securities on the open market.

14. On or about September 29, 1989, Pennzoil acquired additional voting securities of Chevron. As a result of that acquisition, Pennzoil held an aggregate total amount of Chevron voting securities in excess of \$15 million.

15. Pennzoil continued to acquire Chevron voting securities through December 7, 1989. As a result of these acquisitions, as of December 7, 1989, Pennzoil was Chevron's largest shareholder, having acquired and held approximately 8.9% of Chevron's outstanding voting securities for approximately \$2.1 billion.

16. During the time Pennzoil was acquiring Chevron voting securities, Pennzoil considered and anticipated participating in the management of Chevron. Pennzoil's intent included the possibility of participating in the management of Chevron, as evidenced by several factors, including: the magnitude of Pennzoil's investment; Pennzoil and Chevron were competitors in a number of markets; Pennzoil Board members and senior management personnel discussed Chevron taking advantage of Pennzoil's expertise in the oil and gas business; Pennzoil Board members and senior management personnel discussed, both internally and with third parties, obtaining a seat on Chevron's Board of Directors.

17. Pennzoil did not submit a HSR premerger notification and report form and did not wait for the expiration of the HSR

Act's waiting period before making the acquisitions described in paragraphs 14 and 15.

18. On July 16, 1990, Pennzoil filed a premerger notification form with the Federal Trade Commission and the Department of Justice to acquire in excess of \$15 million, but less than 15 percent, of the outstanding voting securities of Chevron.

19. The Federal Trade Commission issued requests for additional information to Pennzoil and Chevron regarding the proposed acquisition. The HSR Act waiting period expired on November 30, 1990.

20. The acquisitions described in paragraphs 14 and 15 were subject to the notification and waiting period requirements of the HSR Act and HSR Rules.

21. The acquisitions described in paragraphs 14 and 15 were not made solely for the purpose of investment within the meaning of the HSR Act, and therefore did not qualify for the exemption provided by section (c)(9) of the HSR Act and 16 C.F.R. § 802.9.

22. Defendant Pennzoil did not comply with the notification and waiting period requirements of the HSR Act and HSR Rules before making the acquisitions of Chevron voting securities described in paragraphs 14 and 15.

23. Defendant Pennzoil was continuously in violation of the HSR Act during the period beginning on or about September 29, 1989, through November 30, 1990.

PRAYER

WHEREFORE, Plaintiff prays:

1. That the Court adjudge and decree that Defendant Pennzoil's acquisitions of Chevron voting securities from September 29, 1989, through December 7, 1989, were in violation of the HSR Act and that the Defendant was in violation of the HSR Act each day of the period from September 29, 1989, through November 30, 1990;

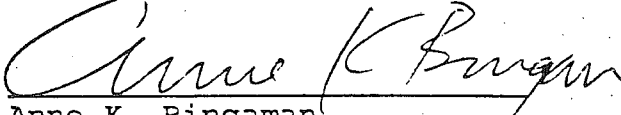
2. That Pennzoil be ordered to pay to the United States an appropriate civil penalty as provided by section (g)(1) of the HSR Act, 15 U.S.C. § 18a(g)(1);

3. That Plaintiff have such other and further relief as the Court may deem just and proper; and

4. That Plaintiff be awarded its costs of this suit.

Dated: \_\_\_\_\_

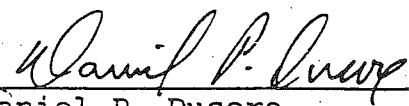
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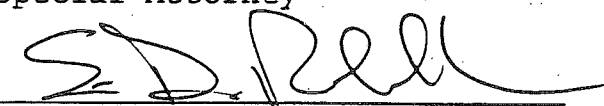
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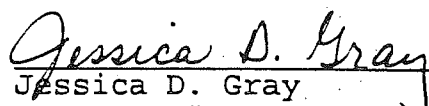
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