

COMPETITION TRIBUNAL  
TRIBUNAL DE LA CONCURRENCE

**FILED / PRODUIT**

January 13, 2009

Chantal Fortin for / pour  
REGISTRAR / REGISTRAIRE

OTTAWA, ONT.

# 004

CT-2008-005

COMPETITION TRIBUNAL

IN THE MATTER of the *Competition Act*, R.S.C. 1985, c. C-34, and the *Competition Tribunal Rules*, SOR/94-290;

AND IN THE MATTER of filing and registration of an amendment to a consent agreement pursuant to section 106 of the *Competition Act*.

BETWEEN:

The Commissioner of Competition

Applicant

- and -

Superior Plus LP

Respondent

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AMENDMENT TO CONSENT AGREEMENT RELATING TO  
THE ACQUISITION BY SUPERIOR PLUS LP OF CERTAIN ASSETS OF  
IRVING OIL LIMITED AND IRVING MARKETING LIMITED

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WHEREAS the Commissioner of Competition ("Commissioner") and Superior Plus LP ("Superior") entered into a Consent Agreement (the "Consent Agreement") in connection with Superior's acquisition of certain propane assets from Irving Oil Limited and Irving Marketing Limited (collectively "Irving");

AND WHEREAS the Consent Agreement provides for the divestiture of certain assets (the "Divestiture Assets"), including an 85,000 gallon bulk propane tank;

AND WHEREAS the Consent Agreement was filed with the Competition Tribunal (the "Tribunal") on May 12, 2008;

AND WHEREAS on October 2, 2008 Superior and North Atlantic Petroleum ("NAR") entered into a conditional agreement (the "NAR Agreement") pursuant to which NAR agreed to purchase all of the Divestiture Assets, except the 85,000 gallon tank, in its stead, NAR agreeing to purchase a 30,000 gallon tank;

AND WHEREAS the NAR Agreement is conditional on obtaining the Commissioner's approval of the sale by Superior to NAR and an order of the Tribunal pursuant to paragraph 106(1)(b) of the *Competition Act* (the "Act") allowing for the substitution of the 30,000 gallon tank for the 85,000 gallon tank;

AND WHEREAS on October 31, 2008, the Commissioner approved the sale by Superior to NAR;

AND WHEREAS on November 19, 2008, the Commissioner and Superior jointly filed an application pursuant to paragraph 106(1)(b) of the Act seeking an order varying the terms of the Consent Agreement to allow for the proposed substitution;

AND WHEREAS on December 11, 2008 the Tribunal, being satisfied with the parties' explanation regarding circumstances surrounding the proposed substitution, issued an order allowing the parties' application;

AND WHEREAS the Commissioner and Superior agree to the filing of this Agreement with the Tribunal by the Commissioner for registration;

NOW THEREFORE the Commissioner and Superior agree to amend the Consent Agreement as follows:

1. Schedule "A" of the Consent Agreement shall be amended by replacing the 85,000 gallon Corner Brook tank (serial number 6187) with a 30,000 gallon tank (serial number 394366). Specifically, the table under the heading "Tanks", and subheading "Corner Brook", shall read:

Tank #: 1  
Capacity: 113,562  
Size: 30,000 gal

Service: Bulk Storage  
Last Inspected:  
Installed: N/A  
XIII. Manufacture / Ser #: 394366

2. This Agreement may be executed in counterparts.

DATED this 13<sup>th</sup> day of January, 2009

“John Syme”

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Commissioner of Competition

“Duane Ellingson”

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Superior Propane LP

FILED AND REGISTERED BY THE TRIBUNAL, THIS \_\_ DAY OF \_\_\_\_\_,  
200\_.