

**THE COMPETITION TRIBUNAL**

**IN THE MATTER OF THE *COMPETITION ACT***, R.S. 1985, c.C-34, as amended, and the *Competition Tribunal Rules*, SOR/94-290, as amended (the “*Rules*”);

**AND IN THE MATTER OF** an inquiry pursuant to subsection 10(1)(b) of the *Competition Act* relating to the proposed acquisition of ICG Propane Inc. by Superior Propane Inc.;

**AND IN THE MATTER OF** an Application by the Director for an order pursuant to s. 92 of the *Competition Act*.

**AND IN THE MATTER OF** an application pursuant to s 104 and of the *Competition Act*.

**B E T W E E N:**

**THE DIRECTOR OF INVESTIGATION AND RESEARCH**

**Applicant**

- and -

**SUPERIOR PROPANE INC., PETRO-CANADA INC., THE CHANCELLOR HOLDINGS CORPORATION and ICG PROPANE INC.**

**Respondents**

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**NOTICE OF APPLICATION**

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TAKE NOTICE that the Director of Investigation and Research (the “Director”) will make an application, on, the 11th day of December, 1998, at the Competition Tribunal, Royal Bank Building, 6<sup>th</sup> Floor, 90 Sparks Street, Ottawa, Ontario, at 10:00 a.m. by telephone conference for:

1.
  - (a) an Order abridging the time for service of this Notice of Application;
  - (b) an Order in the form of the draft order exhibited to the affidavit of John Pecman, filed, against the Respondents pursuant to s. 104 of the *Competition Act* that the Respondents do hold the assets, business and other property of or pertaining to ICG Propane Inc. ("ICG"), acquired by Superior Propane Inc. ("Superior") on Monday December 7 1998, (the "Merger") separate and apart in accordance with the said draft order until further order of the Tribunal; or
  - (c) such other order as may be just.
2. The grounds of the Application are:
  - (a) that an application has been made pursuant to s 92 of the Act seeking, inter alia, orders that the Merger be dissolved in that it will likely lessen or prevent competition substantially in the sale of propane in Canada;
  - (b) that parties to the Merger closed the sale of shares of ICG to Superior on Monday, December 7, 1998;
  - (c) that the Director's sought remedy of dissolution will be substantially impaired given the closing, while facially reversible, in fact will lead to the integration of Superior and ICG and will devalue ICG as a competitor in the market for propane in Canada; and,
  - (d) that the respondent Superior and the Director have consented to the said draft order, and that the other respondents do not oppose the said draft order.

3. The Applicant relies on sections 10 and 104, of the *Competition Act* and Rules 23, and 86 of the *Competition Tribunal Rules*.

4. The following documentary evidence will be presented:

- (a) the Affidavit of John Pecman, sworn the 10<sup>th</sup> day of December, 1998;
- (b) the consent of Superior and the Director to an order abridging the time for service of the within application and consenting to the said draft interim hold separate order;
- (c) such further and other material as counsel may advise.

The Applicant ask that this matter be heard in the English language.

The addresses for service of the Respondents Superior Propane Inc. and ICG Propane Inc. is at Davies, Ward & Beck, 44<sup>th</sup> Floor, 1 First Canadian Place, Toronto, Ontario, M5X 1B1, c/o Mr. Neil Finkelstein and for the other Respondents Petro-Canada Inc., the Chancellor Holdings Corporation at Fraser Milner, 1 First Canadian Place, 100 King Street West, Toronto, Ontario, M5X 1B2 c/o Mr. Randal T. Hughes.

DATED at Ottawa, Ontario, this 10<sup>th</sup> Day of December, 1998.

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