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FILED

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Division of Consumer Affairs

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS

In the Matter of CITGO PETROLEUM CORPORATION, Respondent.	Administrative Action **CONSENT ORDER**

WHEREAS this matter was opened by the New Jersey Division of Consumer Affairs through its Office of Consumer Protection and the New Jersey State Office of Weights and Measures (collectively, "Division"), as an investigation to ascertain whether violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("CFA"), New Jersey Motor Fuels Act, N.J.S.A. 56:6-1 et seq. ("Motor Fuels Act"), and/or the Regulations Governing General Advertising, N.J.A.C. 13:45A-9.1 et seq. ("Advertising Regulations"), have been or are being committed by CITGO Petroleum Corporation ("CITGO"), CITGO Marketers and/or CITGO Retail Dealers;

WHEREAS the Division alleges that CITGO Advertised, Including on the CITGO Website, as well as in online, radio and television Advertisements, that Motor Fuel offered for Sale and sold by CITGO Marketers and CITGO Retail Dealers is CITGO Motor Fuel;

WHEREAS the Division inspected CITGO Retail Dealers and found that at least fourteen (14) were offering for Sale and/or selling Motor Fuel delivered by CITGO Marketers, Including 19 Petroleum, ARFA Enterprises, Datillo Petroleum, General Equities, M. Spiegel, P&J Fuel, Ross Fogg, Sat Raj, and Woroco, that was not CITGO Motor Fuel, which the Division alleges was contrary to CITGO's Advertisements (hereinafter referred to as the "Investigation");

WHEREAS the Division alleges that CITGO failed to implement appropriate Policies concerning Motor Fuel Brand Integrity based upon its failure to discover and/or prevent the Sale by CITGO Marketers and CITGO Retail Dealers of Motor Fuel that was not CITGO Motor Fuel;

WHEREAS CITGO denies that its Advertisements were misleading in any way, that any of its conduct violated any of the laws or administrative regulations of New Jersey, or that it is liable in any way for the independent conduct of CITGO Marketers and/or CITGO Retail Dealers; and

WHEREAS the Division and Respondent (collectively, "Parties") have reached an amicable agreement thereby resolving the issues in controversy and concluding the Investigation without the need for further action, and Respondent having voluntarily cooperated with the Investigation and consented to the entry of the within order ("Consent Order") and for good cause shown:

IT IS ORDERED AND AGREED as follows:

1. EFFECTIVE DATE

1.1 This Consent Order shall be effective on the date that it is filed with the Division ("Effective Date").

2. DEFINITIONS

As used in this Consent Order, the following capitalized words or terms shall have the following meanings, which meanings shall apply wherever the words and terms appear in this Consent Order:

2.1 "19 Petroleum" shall refer to 19 Petroleum Distributors, Inc., with a main business address of 79 Route 520, Englishtown, New Jersey 07726.

2.2 "Advertisement" shall be defined in accordance with N.J.S.A. 56:8-1(a), for purposes of the CFA, and in accordance with N.J.A.C. 13:45A-9.1, for purposes of the Advertising Regulations, and Includes the CITGO Website. This definition also applies to other forms of the term "Advertisement," Including "Advertise" or "Advertised."

2.3 "ARFA Enterprises" shall refer to ARFA Enterprises, Inc., with a main business address of 4350 Haddonfield Road, Suite 200, Pennsauken, New Jersey 08109.

2.4 "Attorney General" shall refer to the Attorney General of the State of New Jersey and the Office of the Attorney General of the State of New Jersey.

2.5 "CITGO" shall refer to CITGO Petroleum Corporation, with a main business address of 1293 Eldridge Parkway, Houston, Texas 77077.

2.6 "CITGO Marketer" shall refer to any Person who, pursuant to an agreement with CITGO, Including a MFA, sells CITGO Motor Fuels to Persons who engage in the retail Sale of CITGO Motor Fuel in New Jersey, Including 19 Petroleum, ARFA Enterprises, Datillo

Petroleum, General Equities, M. Spiegel, P&J Fuel, Ross Fogg, Sat Raj and Woroco.

2.7 "CITGO Motor Fuels" shall refer to Motor Fuels bearing CITGO's brand name, trade dress and/or trademarks, Including TriCLEAN Gasoline.

2.8 "CITGO Retail Dealer" means a "Retail Dealer" defined in accordance with the New Jersey Motor Fuels Act, N.J.S.A. 56:6-1 et seq., specifically N.J.S.A. 56:6-1, that offers for Sale and/or sells CITGO Motor Fuels in New Jersey.

2.9 "CITGO Website" shall refer to the website located at www.citgo.com, as well as any other website owned or controlled by CITGO.

2.10 "Consumer" shall refer to any Person who is offered Merchandise for Sale.

2.11 "Datillo Petroleum" shall refer to Datillo Petroleum, Inc., with a main business address of 50A South Main Street, Suite 300, Spring Valley, New York 10977.

2.12 "General Equities" shall refer to General Equities, Inc., with a main business address of 318 Main Street, Kensington, Connecticut 06037.

2.13 "Including" shall be construed as broadly as possible and shall mean "without limitation." This definition applies to other forms of the word "Including" such as "Include[s]."

2.14 "M. Spiegel" shall refer to M. Spiegel & Sons Corporation, with a main business address of 10 East Village Road, Tuxedo, New York 10987.

2.15 "Merchandise" shall be defined in accordance with N.J.S.A. 56:8-1(c), for purposes of the CFA, and shall be defined in accordance with N.J.A.C. 13:45A-9.1, for purposes of the Advertising Regulations.

2.16 "MFA" shall refer to the Marketer Franchise Agreements and any amendments, schedules or attachments thereto, entered into by CITGO and CITGO Marketers, and which

govern the Sale of CITGO Motor Fuel from CITGO Marketers to CITGO Retail Dealers, and CITGO Retail Dealers to consumers. This definition shall also apply to any agreements between CITGO and CITGO Marketers, regardless of the title of the agreement, that serve the same purpose.

2.17 "Motor Fuel" shall be defined in accordance with N.J.S.A. 56:6-1.

2.18 "Motor Fuel Brand Integrity" shall mean the oversight and monitoring of Motor Fuel distributed for Sale to Consumers to ensure proper use of brand names, trade dress, trademarks and/or proprietary additives by CITGO Marketers and CITGO Retail Dealers.

2.19 "P&J Fuel" shall refer to P&J Fuel, Inc., with a main business address of 2456 St. Georges Avenue, Rahway, New Jersey 07065.

2.20 "New Jersey" and "State" shall refer to the State of New Jersey.

2.21 "Person" shall be defined in accordance with N.J.S.A. 56:8-1(d).

2.22 "Policy" or "Policies" shall Include any procedures, practices and/or established courses of action, whether written or oral.

2.23 "Ross Fogg" shall refer to Ross Fogg Fuel Oil Company, with a main business address of 245 North Virginia Avenue, Carneys Point, New Jersey 08069.

2.24 "Sale" shall be defined in accordance with N.J.S.A. 56:8-1(e).

2.25 "Sat Raj" shall refer to Sat-Raj, Inc., with a main business address of 1200 Laurel Oak Road, Suite 108, Voorhees, New Jersey 08043.

2.26 "TriCLEAN Gasoline" shall refer to CITGO's trademarked name for its gasoline that is registered with the Federal Environmental Protection Agency ("EPA") and Advertised as

being "designed to keep intake valves and fuel injectors clean, and emissions to a minimum, which helps your engine avoid performance robbing deposits and run smoothly."

2.27 "Woroco" shall refer to Woroco Management, LLC, with a main business address of 40 Woodbridge Avenue, Sewaren, New Jersey 07077.

3. REQUIRED BUSINESS PRACTICES AND MONITORING FOR COMPLIANCE

3.1 CITGO shall not engage in any unfair or deceptive acts or practices in the conduct of any business in New Jersey and shall comply with such State and/or federal laws, rules and regulations as now constituted or as may hereafter be amended, Including the CFA and/or the Advertising Regulations.

3.2 CITGO shall take reasonable steps, including those set forth in Sections 3.3, 3.4, and 3.5 of this Consent Order to ensure that: (a) the CITGO Marketers only deliver CITGO Motor Fuels to CITGO Retail Dealers; (b) CITGO Retail Dealers only sell CITGO Motor Fuels to Consumers; and (c) the Motor Fuels sold by CITGO Retail Dealers are the same Motor Fuels as promoted in CITGO's Advertisements, in accordance with the CFA, specifically N.J.S.A. 56:8-2, and the Advertising Regulations, specifically N.J.A.C. 13:45A-9.2(a)(9).

3.3 Within thirty (30) days of the Effective Date, CITGO shall distribute a copy of this Consent Order to all CITGO Marketers, Including 19 Petroleum, ARFA Enterprises, Datillo Petroleum, General Equities, M. Spiegel, P&J Fuel, Ross Fogg, Sat Raj, and Woroco, and all CITGO Retail Dealers. Within forty-five (45) days of the Effective Date, CITGO shall provide the Division with an acknowledgement that each of the above-referenced Persons have been provided with a copy of this Consent Order, along with an alphabetical list of names of such Persons.

3.4 Within one hundred and twenty (120) days of the Effective Date, CITGO will hold at least one (1) Motor Fuel Brand Integrity training session to educate CITGO Marketers and CITGO Retail Dealers of their obligations under the MFAs as well as State and federal laws and the importance of complying with these obligations ("Brand Integrity Education Program"). The Division agrees to participate in the Brand Integrity Education Program in order to emphasize the importance of compliance with New Jersey law. CITGO will make its best efforts to ensure that all CITGO Marketers and CITGO Retail Dealers attend the Brand Integrity Education Program.

3.5 Within thirty (30) days of the Effective Date, and for a period of at least three (3) years thereafter, CITGO shall designate an employee as the Brand Integrity Monitor ("BIM"). The duties of the BIM shall Include:

a) Monitoring for compliance with the contractual and legal requirements to sell only CITGO Motor Fuel under the CITGO trademarks.

b) Conducting quarterly audits of the CITGO Marketers operating in New Jersey, as follows: Commencing January 1, 2017, in each quarter, CITGO will randomly select fifteen (15) CITGO Marketers for audit; for each CITGO Marketer so selected, CITGO will randomly select one (1) of the CITGO Retail Dealers supplied by that CITGO Marketer; and for each CITGO Retail Dealer so selected CITGO will review all delivery tickets and sales records for a thirty (30) day period chosen at random. Each CITGO Marketer operating in New Jersey will be audited at least once per year.

c) Maintaining a log of each audit of CITGO Marketers, which Includes: (i) the dates

on which the audit was conducted; (ii) the name and title of the Person conducting the audit; and (iii) the total gallons of Motor Fuel purchased for the thirty (30) day audit period, itemized by brand (e.g. CITGO Motor Fuels) and octane.

d) Providing the Division with copies of the logs for all such audits within fifteen (15) days of the end of each calendar year.

The BIM may delegate duties to other employees of CITGO, appoint "backup" BIMs, or retain third-parties as CITGO deems reasonable and appropriate, to assist with the BIM's responsibilities. Information provided to the Division by the BIM may be used by the Division in connection with its efforts to enforce the CFA, the Motor Fuels Act and/or Advertising Regulations against CITGO Marketers and CITGO Retail Dealers, as well as ensuring CITGO's compliance with this Consent Order. Further, CITGO expressly reserves the right to take any legal action available to it based upon information provided by the BIM, consistent with the Petroleum Marketing Practices Act, 15 U.S.C. 2801 et seq. ("PMPA"), and CITGO's rights and obligations under its MFAs.

4. SETTLEMENT PAYMENT

4.1. CITGO agrees to pay Four Hundred Fifty Six Thousand Six Hundred Ten and 50/100 Dollars ($456,610.50) in full and final settlement of the Division's claims pursuant to N.J.S.A. 56:8-11, -13 and -19 ("Settlement Payment").

4.2 CITGO shall make the Settlement Payment contemporaneously with its signing of this Consent Order.

4.3 The Settlement Payment shall be made by certified or cashier's check, money

order, wire transfer, or credit card made payable to the "New Jersey Division of Consumer Affairs," and forwarded to:

Russell M. Smith, Jr., Deputy Attorney General
State of New Jersey
Department of Law and Public Safety
Division of Law
Consumer Fraud Prosecution Section
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

4.13 Upon making the Settlement Payment, CITGO shall immediately be fully divested of any interest in, or ownership of, the monies paid and all interest in the monies, and any subsequent interest or income derived therefrom, shall inure entirely to the benefit of the Division pursuant to the terms herein.

5. GENERAL PROVISIONS

5.1 This Consent Order is entered into by the Parties as their own free and voluntary act and with full knowledge and understanding of the obligations and duties imposed by this Consent Order.

5.2 This Consent Order shall be governed by, and construed and enforced in accordance with, the laws of the New Jersey.

5.3 The Parties have negotiated, jointly drafted and fully reviewed the terms of this Consent Order and the rule that uncertainty or ambiguity is to be construed against the drafter shall not apply to the construction or interpretation of this Consent Order.

5.4 This Consent Order contains the entire agreement among the Parties. Except as otherwise provided herein, this Consent Order shall be modified only by a written instrument

signed by or on behalf of the Parties.

5.5 Except as otherwise explicitly provided in this Consent Order, nothing in this Consent Order shall be construed to limit the authority of the Attorney General to protect the interests of the State or the people of the State.

5.6 If any portion of this Consent Order is held invalid or unenforceable by operation of law, the remaining terms of this Consent Order shall not be affected.

5.7 This Consent Order shall be binding upon CITGO as well as any Person through which it may now or hereafter act, as well as any Persons who have authority to control or who, in fact, control and direct its business.

5.8 This Consent Order shall be binding upon the Parties and their successors in interest. In no event shall assignment of any right, power or authority under this Consent Order be used to avoid compliance with this Consent Order.

5.9 This Consent Order is entered into by the Parties for settlement purposes only. Neither the fact of, nor any provision contained in this Consent Order shall constitute, or be construed as: (a) an approval, sanction or authorization by the Attorney General, the Division or any other governmental unit of New Jersey of any act or practice of CITGO; or (b) an admission by CITGO that any of CITGO's acts or practices are unfair or deceptive or violate the CFA, the Motor Fuels Act and/or the Advertising Regulations.

5.10 This Consent Order is not intended, and shall not be deemed, to constitute evidence or precedent of any kind except in: (a) an action or proceeding by one of the Parties to enforce, rescind or otherwise implement any or all of the terms herein; or (b) an action or proceeding involving a Released Claim (as defined in Section 6) to support a defense of res judicata,

collateral estoppel, release or other theory of claim preclusion, issue preclusion or similar defense.

5.11 This Consent Order is not intended, and shall not be deemed, to limit any of CITGO's rights in its relationships with CITGO Marketers or CITGO Retail Dealers under State or federal law, its MFAs, or any other contracts.

5.12 Unless otherwise prohibited by law, any signatures by the Parties required for entry of this Consent Order may be executed in counterparts, each of which shall be deemed an original, but all of which shall together be one and the same Consent Order.

5.13 This Consent Order is a public document subject to the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

6. REPRESENTATIONS AND WARRANTIES

5.14 CITGO represents and warrants that CITGO Marketers are independent business entities who operate as franchised distributors of CITGO Motor Fuel pursuant to MFAs with CITGO, that CITGO's rights and obligations vis-à-vis the CITGO Marketers are defined and limited by the terms of the MFAs, the PMPA and other State and federal laws, and that CITGO does not operate or control the operations of CITGO Marketers or any of the CITGO Retail Dealers supplied by the Marketers.

5.15 The Division represents and warrants that this Consent Order represents a complete resolution of the Investigation.

5.16 The Parties represent and warrant that an authorized representative of each has signed this Consent Order with full knowledge, understanding and acceptance of its terms and that the representative has done so with authority to legally bind the respective Party.

7. RELEASE

7.1 In consideration of the undertakings, mutual promises and obligations provided for in this Consent Order and conditioned on CITGO making the Settlement Payment in the manner specified in Section 4, the Division hereby agrees to release CITGO from any and all civil claims or Consumer related administrative claims, to the extent permitted by State law, which the Division could have brought prior to the Effective Date against CITGO for violations of the CFA, the Motor Fuels Act, and/or the Advertising Regulations arising out of the Investigation, as well as the matters specifically addressed in this Consent Order ("Released Claims").

7.2 Notwithstanding any term of this Consent Order, the following do not comprise Released Claims: (a) private rights of action; (b) actions to enforce this Consent Order; and (c) any claims against CITGO by any other agency or subdivision of the State.

8. PENALTIES FOR FAILURE TO COMPLY

8.1 The Attorney General (or designated representative) shall have the authority to enforce the provisions of this Consent Order or to seek sanctions for violations hereof or both.

8.2 The Parties agree that any future violations by CITGO of Section 3 of this Consent Order, the CFA and/or the Advertising Regulations may subject CITGO to enhanced civil penalties pursuant to N.J.S.A. 56:8-13.

9. COMPLIANCE WITH ALL LAWS

9.1 Except as provided in this Consent Order, no provision herein shall be construed as:

a. Relieving CITGO of its obligation to comply with all State and Federal laws, regulations or rules, as now constituted or as may hereafter be amended, or as granting permission to engage in any acts or practices

prohibited by any such laws, regulations or rules; or

b. Limiting or expanding any right the Division may otherwise have to obtain information, documents or testimony from CITGO pursuant to any State or Federal law, regulation or rule, as now constituted or as may hereafter be amended, or limiting or expanding any right CITGO may otherwise have pursuant to any State or Federal law, regulation or rule, to oppose any process employed by the Division to obtain such information, documents or testimony.

10. NOTICES UNDER THIS CONSENT ORDER

10.1 Except as otherwise provided herein, any notices or other documents required to be sent to the Parties pursuant to this Consent Order shall be sent by United States mail, Certified Mail Return Receipt Requested, or other nationally recognized courier service that provides tracking services and identification of the Person signing for the documents. The notices and/or documents shall be sent to the following addresses:

For the Division:

Russell M. Smith, Jr., Deputy Attorney General
Division of Law, Consumer Fraud Prosecution Section
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

For CITGO:

Scott C. Solberg, Esq.
Eimer Stahl LLP
224 South Michigan Avenue, Suite 1100
Chicago, Illinois 60604

IT IS ON THE 23rd DAY OF December, 2016 SO ORDERED.

CHRISTOPHER S. PORRINO
ATTORNEY GENERAL OF NEW JERSEY

By: _____
STEVE C. LEE, DIRECTOR
DIVISION OF CONSUMER AFFAIRS

THE PARTIES CONSENT TO THE FORM, CONTENT AND ENTRY OF THIS CONSENT ORDER ON THE DATES BESIDE THEIR RESPECTIVE SIGNATURES.

FOR THE DIVISION:

CHRISTOPHER S. PORRINO
ATTORNEY GENERAL OF NEW JERSEY

By:_____ Dated:_____12/23_____, 2016

Russell M. Smith, Jr.
Deputy Attorney General
Division of Law, Consumer Fraud Prosecution
124 Halsey Street – 5th Floor
P.O. Box 45029
Newark, New Jersey 07101
Tel. (973) 877-1280

FOR THE RESPONDENT:

EIMER STAHL LLP

By:_____ Dated:_____, 2016

Scott C. Solberg, Esq.
224 South Michigan Avenue
Suite 1100
Chicago, Illinois 60604
Tel. (312) 660-7666

CITGO PETROLEUM CORPORATION

By:_____ Dated:_____, 2016

Alan Flagg
Assistant Vice President, Supply & Marketing
1293 Eldridge Parkway
Houston, Texas 77077
Tel. (832) 486-5848

THE PARTIES CONSENT TO THE FORM, CONTENT AND ENTRY OF THIS CONSENT ORDER ON THE DATES BESIDE THEIR RESPECTIVE SIGNATURES.

FOR THE DIVISION:

CHRISTOPHER S. PORRINO
ATTORNEY GENERAL OF NEW JERSEY

By:_____ Dated:_____, 2016

Russell M. Smith, Jr.
Deputy Attorney General
Division of Law, Consumer Fraud Prosecution
124 Halsey Street – 5th Floor
P.O. Box 45029
Newark, New Jersey 07101
Tel. (973) 877-1280

FOR THE RESPONDENT:

EIMER STAHL LLP

By:_____ Dated: December 21, 2016

Scott C. Solberg, Esq.
224 South Michigan Avenue
Suite 1100
Chicago, Illinois 60604
Tel. (312) 660-7666

CITGO PETROLEUM CORPORATION

By:_____ Dated: December 20, 2016

Alan Flagg
Assistant Vice President, Supply & Marketing
1293 Eldridge Parkway
Houston, Texas 77077
Tel. (832) 486-5848