

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright

In the Matter of)	
)	
POLYPORE INTERNATIONAL, INC.,)	Docket No. 9327
a corporation.)	
)	

APPLICATION FOR APPROVAL OF THE DIVESTITURE OF MICROPOROUS

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Introduction

Pursuant to Section 2.41(f) of the Federal Trade Commission (the “FTC” or “Commission”) Rules of Practice and Procedure,¹ and ¶ II of the Decision and Order issued by the Commission in this matter as of November 5, 2010 (the “Order”),² Polypore International, Inc. (“Polypore” or the “Respondent”) hereby petitions the Commission to approve the divestiture of Microporous, which is comprised of all of the outstanding capital stock of MP Assets Corporation (“MP Assets Corp.”) and the rights, title, and interest in the entire business quota in Separatorenerzeugung Holding GmbH (“Separator Holding GmbH”) (collectively, the “Shares”), to Seven Mile Capital Partners (“Seven Mile”), pursuant to the following agreements (the “Divestiture Agreements”):

- (i) Stock Purchase Agreement, to be dated and entered into prior to the Commission’s approval of the divestiture between Daramic Acquisition Corp. (“Daramic”) (a subsidiary of Polypore), Polypore BV (a subsidiary of Polypore), Polypore International, Inc. (solely for purposes of Section 11.18), Seven Mile Capital Partners Top, Inc. and SASR Zweiundfünfzigste Beteiligungsverwaltung GmbH (the “Agreement”), and related disclosure schedules, the agreed upon forms of which are attached as Annexes 1 and 2;
- (ii) Transition Services Agreement, to be dated as of and entered into on the date of divestiture (“Closing Date”), the agreed upon form of which is attached as Annex 3;

¹ 16 C.F.R. § 2.41(f).

² Capitalized terms used, but not otherwise defined, herein have the meaning set forth in the Final Order, In the Matter of Polypore International, Inc. (Nov. 5, 2010), *hereinafter* the “Order.”

- (iii) Technical Services Agreement, to be dated as of and entered into on the Closing Date, the agreed upon form of which is attached as Annex 4;
- (iv) Shared IP License Agreement, to be dated as of and entered into on the Closing Date, the agreed upon form of which is attached as Annex 5; and
- (v) Supply Agreement, to be dated as of and entered into on the Closing Date, the agreed upon form of which is attached as Annex 6; and
- (vi) Share Transfer Agreement to be dated as of and entered into on the Closing Date, the agreed upon form of which is attached as Annex 7.

The proposed divestiture of Microporous to Seven Mile would fully accomplish the Order's objectives by "creat[ing] an independent, viable and effective competitor in the markets in which Microporous was engaged at the time of the Acquisition Date, and remedy[ing] the lessening of competition resulting from the Acquisition" as alleged by the Commission.³ Specifically, by divesting Microporous, as contemplated by the Order, to Seven Mile, the Relevant Markets will gain a significant competitor. As explained in greater detail below, Seven Mile is a particularly suitable purchaser for Microporous. Seven Mile has the financial and professional capability and incentives to operate Microporous as an effective competitor in the Relevant Markets. Additionally, Seven Mile has the competitive ability to restore and maintain competition to the Relevant Markets.

³ Order, ¶ II.H. The Commission found that Polypore's acquisition of Microporous was reasonably likely to substantially lessen competition in three relevant markets: North American deep-cycle, motive and starter, lighting, and ignition ("SLI") battery separators (collectively referenced in this Application as the "Relevant Markets"). Opinion of the Commission, In the Matter of Polypore International, Inc. (FTC Docket No. 9327), *hereinafter* the Opinion. Although Polypore disagreed with the findings of the Commission, for the purposes of this Application, Polypore uses the Commission's market definition and findings regarding competitive effects of the Acquisition in the Opinion.

For the reasons set forth above, and as explained in greater detail below, Polypore respectfully requests that the Commission approve the proposed divestiture of Microporous to Seven Mile.

I. RELEVANT BACKGROUND

On February 29, 2008, Polypore, a Delaware corporation located in North Carolina, acquired all of the outstanding stock of Microporous, a Delaware corporation owned by a private equity firm, Industrial Growth Partners II L.P. (the “Acquisition”). Through the transaction, Polypore acquired a plant in Piney Flats, Tennessee (“Piney Flats”); a plant under construction in Feistritz, Austria (“Feistritz”); and equipment for an additional production line (the “Line in Boxes”)⁴, which are collectively referred to as the “Microporous Assets.”

The Commission challenged Polypore’s acquisition of Microporous as a violation of Section 7 of the Clayton Act, 15 U.S.C. § 18 and, on November 5, 2010, the Commission ordered Polypore to divest completely the Microporous Assets to a buyer that receives the prior approval of the Commission.⁵ On July 11, 2012, the 11th Circuit Court of Appeals denied Polypore’s appeal of the Commission’s Order, and on October 17, 2012, the 11th Circuit Court of Appeals denied Polypore’s Petition for Rehearing. On Monday, June 24, 2013, the Supreme Court of the United States denied Polypore’s Writ of Certiorari to review the 11th Circuit’s ruling.

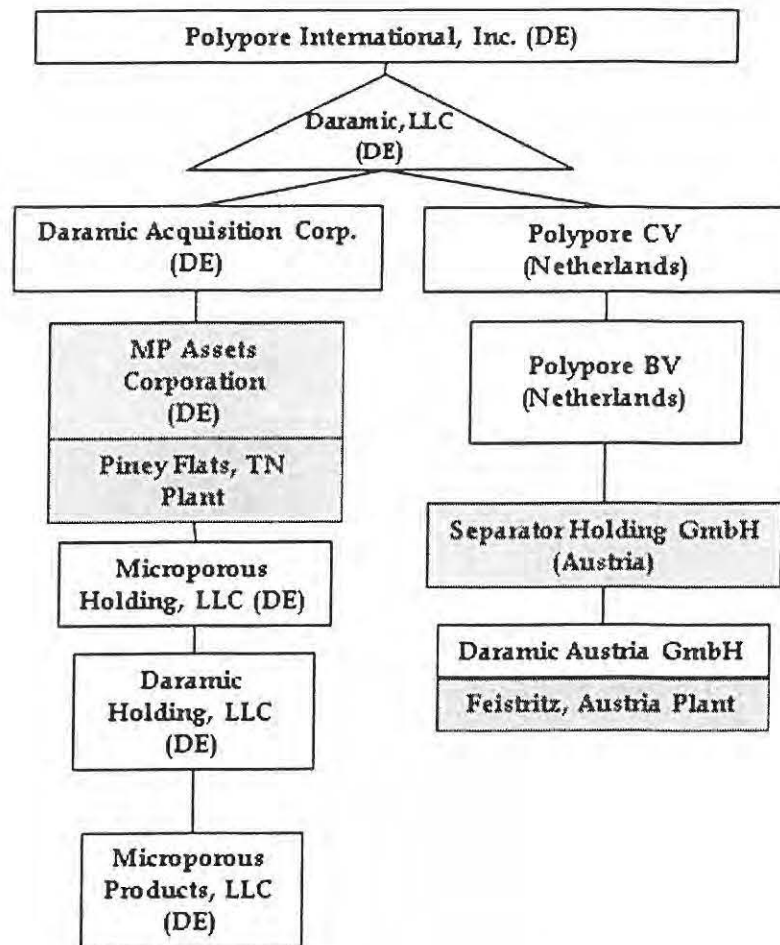
⁴ The Order defines the Line in Boxes to include: “all property and assets, tangible and intangible, related to capacity expansions proposed, planned or under consideration by Microporous as of the Acquisition Date, including, but not limited to, all engineering plans, equipment, machinery, tooling, spare parts, and other tangible property, wherever located, relating to a proposed, planned or contemplated capacity expansion to be accomplished through installation of an additional Battery Separator production line at Piney Flats Plant.” Order, ¶ I.Y.

⁵ Order, ¶ II.

Beginning in October of 2012, Polypore actively engaged in a good faith effort to divest itself of Microporous, as required by the Order.

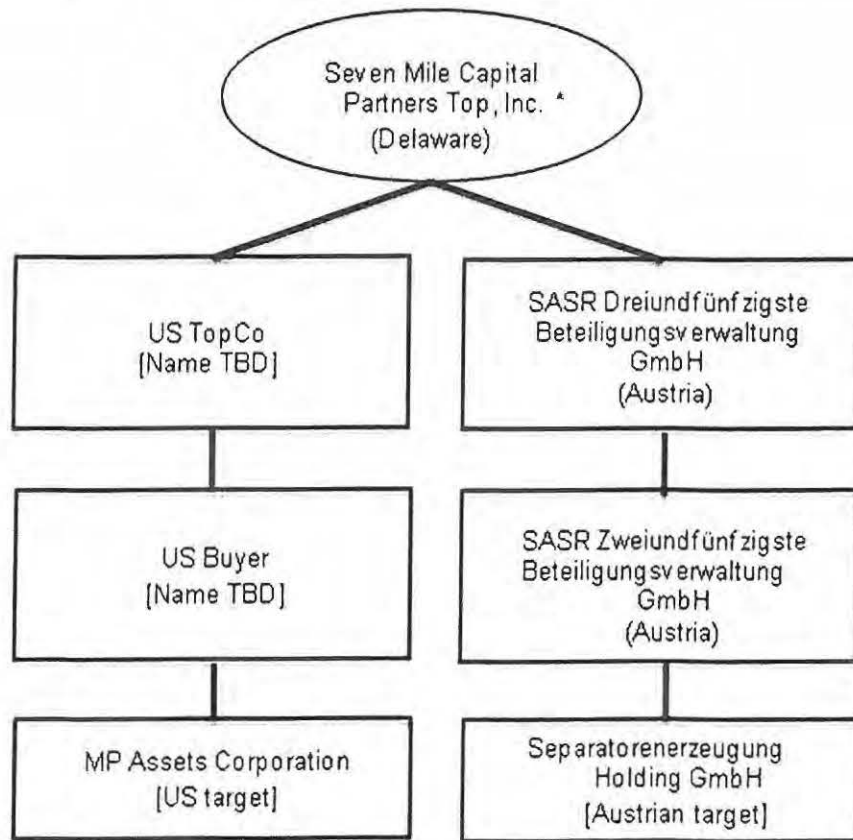
II. DESCRIPTION OF THE DIVESTITURE

Following the Acquisition, Polypore held the Microporous Assets through MP Assets Corp., Separator Holding GmbH, and each of their respective subsidiaries. Structure Chart A below demonstrates the Microporous Assets within Polypore’s post-Acquisition corporate organization.



The Agreement achieves a complete divestiture of the Microporous Assets to Seven Mile. The purchase price for the Microporous Assets is \$ [REDACTED] million. For purposes of the divestiture, Seven Mile has formed Seven Mile Capital Partners Top, Inc. (“U.S. Buyer”) and SASR

Zweiundfünfzigste Beteiligungsverwaltung GmbH (“Austrian Buyer”), two new entities to hold the Microporous Assets after the Closing Date. Section 2.1 of the Agreement conveys all of the outstanding capital stock of MP Assets Corp. to U.S. Buyer, and the rights, title, and interest in the entire business quota in Separator Holding GmbH to Austrian Buyer.⁶ Structure Chart B below demonstrates the corporate structure of the Microporous Assets within Seven Mile’s corporate organization post-divestiture.



* May be a Luxembourg SARL

⁶ The business quota of Separator Holding GmbH will be transferred to Seven Mile pursuant to a share transfer agreement referenced by Section 2.4 of the Agreement. Other than in relation to the legal transfer of the quota in Separator Holding GmbH, the Agreement supersedes and governs in all respects.

III. THE DIVESTITURE AGREEMENTS FULFILL THE TERMS AND PURPOSES OF THE ORDER

A. Transfer of the Microporous Assets

Paragraph II.A of the Order requires Polypore to divest Microporous, which ¶ I.AA of the Order defines to include:

All of Respondent's rights, title and interest in and to the following property and assets, tangible and intangible, wherever located, and any improvements, replacements or additions thereto that have been created, developed, leased, purchased, or otherwise acquired by Respondent after the Acquisition Date, relating to the research, development, manufacture, finishing, packaging, distribution, marketing, or sale of Microporous Battery Separators:

- (a) Piney Flats;
- (b) Feistritz;
- (c) the Line in Boxes;
- (d) Microporous Intellectual Property;
- (e) Contracts;
- (f) Books and Records; and
- (g) All rights to use Shared Intellectual Property pursuant to a Shared Intellectual Property License.

1. Piney Flats and Feistritz

The Agreement conveys Piney Flats to Seven Mile. As indicated by Structure Chart A above, MP Assets Corp. holds Piney Flats. Section 2.1 of the Agreement conveys MP Assets Corp. to U.S. Buyer, and accordingly, conveys Piney Flats to Seven Mile.

The Agreement conveys Feistritz to Seven Mile. As indicated by Structure Chart A above, Separator Holding GmbH holds Daramic Austria GmbH. Daramic Austria GmbH holds Feistritz. Section 2.1 of the Agreement conveys Separator Holding GmbH to Austrian Buyer, and accordingly, conveys Feistritz to Seven Mile.

2. Line in Boxes

Prior to the Acquisition, Microporous had initiated the design and planning for the additional line, but no work was done to install the line. Since the Acquisition, Polypore has maintained the Line in Boxes in accordance with the Order. The Line in Boxes will transfer to Seven Mile as part of the divestiture, pursuant to Section 2.1 of the Agreement, which conveys MP Assets Corp. and Separator Holding GmbH to Seven Mile.

3. Microporous Intellectual Property

Schedule 3.13 of the Agreement lists all registered Microporous Intellectual Property, and each pending application therefor. Section 3.13 of the Agreement acknowledges that Microporous owns all rights, title, and interest in and to Microporous Intellectual Property, and has the valid right to use all other Business Intellectual Property, which is defined to include all Intellectual Property owned or used by Microporous.

4. Contracts

Since Seven Mile is purchasing the stock of the Microporous entities, the Contracts will transfer with the sale. To the extent consents are required for transfer of the Contracts, Section 5.3(d) requires Sellers (as defined in the Agreement) to obtain such consents.

5. Books and Records

The Microporous Books and Records will transfer to Seven Mile as part of the divestiture, pursuant to Section 2.1 of the Agreement, which conveys MP Assets Corp. and Separator GmbH to Seven Mile.

B. Other Ancillary Relief

1. Microporous Assets, Fixtures, Tangible Personal Property

Paragraph C.1 of the Order requires Polypore to restore to Microporous any Microporous Assets as of the Acquisition Date that were removed from Microporous at any time from the

Acquisition Date through Closing, other than Battery Separators sold in the ordinary course of business and Inventories consumed in the ordinary course of business. To the extent any fixtures or Tangible Personal property were removed from Feistritz, Piney Flats, or the Line in Boxes after the Acquisition Date, Paragraph C.2 of the Order requires Polypore to return, restore to good working order suitable for use under normal operating conditions, or replace with equivalent assets these fixtures or Tangible Personal Property.

Polypore has not removed any Microporous Assets from Microporous, or removed any fixtures or Tangible Personal Property from Feistritz, Piney Flats, or the Line in Boxes. Polypore is therefore in compliance with the requirements of ¶ C.1 and ¶ C.2 of the Order.

2. Consents and Waivers

In accordance with ¶ II.C.3 of the Order, Section 5.3(d) of the Agreement requires Sellers to secure all Consents from third parties that are necessary to divest any property or assets, tangible or intangible (including, not limited to, any Contract), of Microporous to Seven Mile.⁷ Schedule 3.3 of the Agreement contains a list of all third parties from which consents are required pursuant to Section 5.3(d) of the Agreement. All required consents listed on Schedule 3.3 will be obtained prior to the Closing Date.

3. Shared Intellectual Property License

Section 3.13(h) of the Agreement contemplates the grant of a Shared Intellectual Property License to Seven Mile for all Polypore-owned Intellectual Property used by Microporous, in

⁷ Provided, however, that in instances where (i) Microporous Battery Separators are sold together with Daramic Battery Separators under the same Terminable Contract, Sellers shall only be required to obtain such Consents from the Customer as necessary to divest that portion of the Terminable Contract pertaining to Microporous Battery Separators, or (ii) any Contracts are utilized in connection with the manufacture of Microporous Battery Separators and Daramic Battery Separators under the same Contract, Sellers shall only be required to obtain such Consents from the other contracting party as necessary to divest that portion of the Contract pertaining to Microporous Battery Separators; provided further, however, that if for any reason Sellers are unable to accomplish such an assignment or transfer of Contracts, they shall enter into such agreements, contracts, or licenses as are necessary to realize the same effect as such transfer or assignment. Order, ¶ II.C.3.

satisfaction of ¶ II.C.4 of the Order. Exhibit B of the Agreement is a Shared Intellectual Property License, which conveys to Seven Mile all rights to use Shared Intellectual Property, as defined by the Order.

In accordance with ¶ II.F.1 of the Order, Section 5.4(e) of the Agreement also prohibits Polypore from suing Microporous to block access to technology owned by Polypore as of the Closing Date, including the Jungfer Technology,⁸ where such lawsuit would have the potential to interfere with Seven Mile's ability to practice in the research, development, manufacture, use, import, export, distribution, offer to sell or the sale of Microporous Battery Separators. In accordance with ¶ II.F.2 of the Order, Section 5.4(f) of the Agreement requires Polypore to provide, upon reasonable notice and request from Seven Mile, the assistance of knowledgeable Polypore employees to assist Seven Mile to defend against, respond to, or otherwise participate in any litigation related to the Microporous Intellectual Property, or Shared Intellectual Property.

4. Supply Agreement

In accordance with Section 8.2(d) of the Agreement, Microporous will supply battery separators to Daramic Battery Separator India Private Ltd. ("Daramic India"), Daramic LLC's Indian subsidiary, for a period of [REDACTED]. The current sales of Microporous' Feistritz plant to Daramic India represent approximately [REDACTED]% of Feistritz volume, and the Supply Agreement sales price of €[REDACTED] is profitable for Feistritz. Microporous is not required to supply Daramic India beyond the minimum required by the Supply Agreement. The Supply Agreement guarantees that Microporous will maintain a reliable customer and a revenue source during the transition period.

⁸ Paragraph I.W. of the Order defines the Jungfer Technology to be "all Intellectual Property owned or licensed by [Polypore] as a result of its acquisition of Separatorenerzeugung GmbH ('Jungfer') on November 16, 2001."

5. Microporous Employees

On February 25, 2013, Polypore uploaded all Microporous Employee Information required by ¶ I.P and ¶ II.D.1 of the Order to a data room to which Seven Mile was given access on December 21, 2012. This information included (i) a list of all Microporous Employees, (ii) Employee Information (as defined by the Order) for each Person on the list, and (iii) any available contact information, including the last known address for any Person formerly employed as a Microporous Employee whose employment terminated prior to the Closing Date. Polypore has continued to update this information as changes have occurred with respect to Microporous Employees in the ordinary course of business. For example, on June 27, 2013, Polypore provided an update to the list of Microporous Employees for new employees that began employment with Polypore after February 25, 2013. Additionally, on July 16, 2013 and on August 30, 2013, Polypore provided available contact information for those Microporous Employees terminated after February 25, 2013.⁹

In addition, on February 13, 2013, Polypore made available to Seven Mile the opportunity to immediately inspect the personnel files and other documentation relating to Microporous Employees, including all applicable employee benefit plan descriptions, and to interview any Microporous Employees personally and outside the presence or hearing of any employee or agent of Polypore.

Pursuant to ¶ II.D. of the Order, Polypore has taken all actions necessary to assist Seven Mile in evaluating, recruiting, and employing Microporous Employees. In particular, Polypore has not impeded or interfered with Seven Mile's offer of employment to any Microporous

⁹ Polypore first provided Microporous Employee Information to Seven Mile in February 2013. Polypore reengaged its negotiations with Seven Mile on May 10, 2013. Since May 10, 2013, Seven Mile has had uninterrupted access to the Microporous Employee Information available in the data room. In addition, on July 30 and 31, Seven Mile met in-person with Peter Gaugl, Roger Eggleston, Bill Brown, Steve McDonald, and Steve Willis pursuant to ¶ II.D of the Order.

Employee. Polypore has not attempted to persuade, or offered any incentive to, any Microporous Employees to decline employment with Seven Mile. Pursuant to Section 5.9(g) of the Agreement, Polypore has also removed any contractual impediments and irrevocably waived any legal or equitable rights it may have to deter Microporous Employees from accepting employment with Seven Mile.

In addition, Polypore has continued to extend to any Microporous Employees, during their employment prior to the Closing, all employee benefits offered by Polypore, including regularly scheduled or merit raises and bonuses, and regularly scheduled vesting of all pension benefits. Polypore has agreed to pay a Retention Bonus to any Microporous Employees to whom Seven Mile has made a written offer of employment who accept a position with Seven Mile at the time of divestiture of Microporous. These employees, and others who will receive a Retention Bonus, and the corresponding amounts, are listed in Annex 9.

6. Technical Services

Pursuant to ¶ I.I.F.3, Seven Mile has requested, and Polypore has agreed to provide, technical services to Seven Mile, as described in a Technical Services Agreement (Annex 4). These services are described in Schedule A to the Technical Services Agreement. The Technical Services Agreement will endure for up to two years.

7. Transition Services

Pursuant to ¶ I.I.F.3.b, Seven Mile has requested, and Polypore has agreed to provide, transition services to Seven Mile, as described in a Transition Services Agreement (Annex 3). These services are described in Schedule A to the Transition Services Agreement. The Transition Services Agreement will endure for up to two years.

8. Customers with Terminable Contracts

In accordance with ¶ VI.A.5 of the Order, Section 5.8 of the Agreement requires Seven Mile to allow all Customers with Terminable Contracts for Microporous Battery Separators the right and option unilaterally to reopen and renegotiate or to terminate their contracts, solely at the Customer's option, without penalty, forfeiture or other charge to the Customer consistent with ¶ VI.A.5 of the Order as if the Terminable Contracts remained with Polypore.¹⁰ Also in accordance with ¶ VI.A.5 of the Order, Section 5.8 of the Agreement requires that all Customers with Terminable Contracts for Microporous Battery Separators be considered third party beneficiaries of Section 5.8 of the Agreement, with the right to enforce Section 5.8 independent and apart from Polypore.

9. Confidential Business Information

In accordance with ¶ II.G of the Order, Section 5.9 of the Agreement requires Polypore to, as soon as practicable after the Closing Date, deliver in good faith, and at Polypore's expense, all Microporous Confidential Business Information to Seven Mile in a manner that ensures its completeness and accuracy and that fully preserves its usefulness. Also in accordance with ¶ II.G of the Order, Section 5.9 requires Polypore to afford Seven Mile access to all such Confidential Business Information and employees who possess such information until delivery has been completed, and to safeguard the Confidential Business Information from improper use, as described by the Order.

¹⁰ Paragraph VI.A.5 of the Order similarly requires Polypore to allow all Customers with Terminable Contracts for Microporous Battery Separators the right and option unilaterally to reopen and renegotiate or to terminate their contracts, solely at the Customer's option, without penalty, forfeiture or other charge to the Customer.

IV. POLYPORE EXTENSIVELY MARKETED MICROPOROUS, WITH THE PROFESSIONAL ASSISTANCE OF WELLS FARGO SECURITIES, LLC (“WELLS FARGO”), BEFORE SELECTING SEVEN MILE AS THE DIVESTITURE BUYER

In order to comply with ¶ II.H of the Order, Polypore engaged Wells Fargo to market Microporous to potential divestiture buyers. In total, Wells Fargo communicated with more than ■ potential divestiture buyers, including both financial and strategic institutions. On behalf of Polypore, Wells Fargo prepared a confidential offering memorandum (“CIM”) and furnished the CIM and other confidential offering materials to ■ parties that expressed some interest in reviewing the offering materials. Wells Fargo and senior Polypore management provided an in-person management presentation to ■ parties with serious interest in further considering the transaction. ■ parties submitted written initial indications of interest. In response to Wells Fargo’s invitation to submit revised indications of value, ■ parties submitted revised indications. From this group, Polypore chose Seven Mile as the buyer most capable of fulfilling the Order requirements and restoring competition to the marketplace. A description of Seven Mile’s business is enclosed as Annex 12.

With the assistance of Wells Fargo and other advisors, Polypore negotiated the Agreement with Seven Mile. As described in more detail below, Seven Mile is a highly qualified buyer from both a financial and competitive perspective, and the divestiture to Seven Mile will fully restore competition to the Relevant Markets in compliance with the terms of the Order.

Polypore has kept the FTC staff as well as the Monitor Trustee apprised of the efforts undertaken to divest Microporous. As part of Polypore’s monthly compliance report, and in satisfaction of ¶ X.I of the Order, Polypore has provided a detailed description of all substantive contacts and negotiations for the divestiture, the identity of all parties contacted, copies of all

material written communications to and from such parties, and all reports and recommendations concerning the divestiture. Throughout the process, the FTC staff has provided input and guidance regarding potential divestiture buyers, proposed management team members, key terms of the Agreement, and other aspects of the divestiture process. Polypore has fully cooperated with the staff's requests for information, and the Divestiture Agreements currently reflect all guidance, comments, and revisions provided by the FTC staff.

V. SEVEN MILE IS A WELL-QUALIFIED BUYER AND IS READY, WILLING AND ABLE TO OPERATE MICROPOROUS AS A VIABLE, INDEPENDENT, AND EFFECTIVE COMPETITOR

The FTC has identified two key factors to consider when evaluating a divestiture buyer's ability to restore competition to the relevant market: "(1) the financial capability and incentives to acquire and operate the assets, and (2) the competitive ability to maintain or restore competition in the market."¹¹ As discussed below, and as set forth in additional detail in the Confidential Business Plan that Seven Mile separately submitted to the FTC, Seven Mile easily satisfies both criteria.

A. Seven Mile Has The Financial Capability And Incentives To Acquire And Operate Microporous As An Independent Competitor.

Seven Mile is a New York-based private equity firm that seeks to acquire either control or substantial influence of both individual companies as well as portfolios of companies. Seven Mile manages or advises assets of approximately \$■■■ million while managing a portfolio consisting of 18 companies across the traditional industrial, business services and renewable energy markets.

¹¹ Negotiating Merger Remedies: Statement of the Bureau of Competition of the Federal Trade Commission 19 (Jan. 30, 2012), available at <http://www.ftc.gov/bc/bestpractices/merger-remediesstmt.pdf> at 9.

Seven Mile has the financial ability to purchase Microporous and to continue to operate the business on a long-term basis. Seven Mile's financial strength is demonstrated by its fiscal year 2012 and first-half of 2013 revenues and assets, as well as other indicators apparent in its financial statements, which Seven Mile separately has provided to the staff on a confidential basis. Seven Mile's strong financial position will enable Seven Mile to operate, maintain, and develop Microporous for the foreseeable future.

Seven Mile will fund the acquisition of Microporous through a combination of debt and equity. Seven Mile will obtain approximately ■ percent of the total funds necessary to consummate the transaction by way of cash equity contributions. Financing for the transaction and related fees and expenses will be comprised of up to \$■ million by way of senior unsecured subordinated notes, and an aggregate amount of up to \$■ million by way of senior secured credit facilities, such senior credit facilities being comprised of (i) term loan facilities of up to \$■ and (ii) a revolving credit facility of \$■ (a portion of the revolving credit facility may be used in connection with financing the transaction and related expenses). Kayne Anderson Mezzanine Advisors and certain of its affiliates ("Kayne Anderson") will purchase the senior unsecured subordinated notes. KeyBank National Association and certain of its affiliates ("KeyBank") will underwrite the entire principal amount of senior secured credit facilities. This financing, as well as additional committed capital reserves, will fund the acquisition and provide substantial additional liquidity to Microporous to assure Microporous's financial vitality.

Seven Mile has dedicated significant resources to structuring a financing arrangement that factors in the significant contribution of U.S. and Austrian operations to the cash flow of Microporous. Seven Mile has also performed extensive due diligence regarding Microporous's current investment and expenditure requirements, and is fully capable of committing the

necessary capital to meet these requirements. Accordingly, there is no question that Seven Mile is fully capable of purchasing Microporous and continuing to operate the business for the foreseeable long term.

Seven Mile is also fully motivated to operate Microporous as an independent and effective competitor. Seven Mile is a private equity firm that focuses on growth and has a strong incentive to grow the Microporous business to achieve superior investment returns. As discussed in its Confidential Business Plan, Seven Mile plans to invest substantially in expanding Microporous's capacity, extending and enhancing customer relationships, and aggressively competing in each of the Relevant Markets. In short, under Seven Mile's leadership, Microporous has not only the financial capability but also an overriding incentive to compete vigorously to achieve Seven Mile's investment strategy and goals.

B. Seven Mile Has The Competitive Ability To Restore Competition In The Relevant Markets.

Seven Mile has extensive experience in acquiring and enhancing both venture and growth portfolio companies. As noted above, Seven Mile manages or advises on over \$■ million in assets and manages 18 distinct private equity investments that span North America and Europe. The members of Seven Mile's senior management team are highly-qualified, experienced professionals, selected for their talent, knowledge, and experience at some of the most prestigious firms in the financial community.

Seven Mile's portfolio companies touch a broad spectrum of industries. Seven Mile has deep-seated expertise in products that Microporous sells and end-markets that it serves. With its global footprint, talented team, and proven record in operating numerous portfolio companies, Seven Mile is the ideal acquirer to ensure that competition is fully restored and advanced in the Relevant Markets.

Seven Mile's two principal partners together have over 40 years of combined investment and/or management experience. They make Seven Mile uniquely qualified to acquire Microporous and to ensure its return to vigorously competitive independence.

Vince Fandozzi, Seven Mile's Managing Partner, has twenty years of private equity and investment experience, including as Global Head of Private Equity and Alternative Investments at Citi Holdings, as Global Head of M&A for all of Citigroup's corporate M&A activities, and in Citigroup Investment Banks' M&A group advising clients in numerous industries including industrial, telecom & technology, retail & consumer products and the healthcare sectors. Mr. Fandozzi serves or has served on the boards of numerous companies, including in the plastics, automotive, power, technology, and finance industries.

Kevin Kruse, a Partner at Seven Mile, has eighteen years of private equity and investment experience, including as a Managing Director for North American Industrials at Warburg Pincus LLC, and, prior to that, at AEA Investors, Inc. and Bain & Co. Mr. Kruse serves, or has served, on the boards of numerous companies, including in industrials, plastics, and renewable energy.

Seven Mile has identified Jean-Luc Koch to serve as the President and CEO of Microporous after the Closing Date. After careful consideration, Seven Mile selected Mr. Koch for his extensive experience in the industry, spanning 16 years, known product expertise, and keen leadership ability. Seven Mile separately has provided more extensive details about Mr. Koch's experience and qualifications that make him an ideal leader for Microporous.

Seven Mile's experience in partnering with existing senior management teams will also assure the continued successful operation of Microporous. Under the leadership of certain key managers, including Bill Brown, Peter Gaugl, Roger Eggleston, Steve McDonald, and Steve Willis, the Microporous business has flourished since the Acquisition. Indeed, Microporous's

Piney Flats and Feistritz plants have operated autonomously for the last few years and have been primarily operated by plant-level management teams.

Microporous will retain these key leaders post-divestiture, and they will bring their industry, plant and product knowledge with them. Mr. Brown will serve as Microporous's Chief Financial Officer and will benefit from five years of experience in the industry and ten years of experience working with multinational operations. Mr. Brown has successfully managed finances for Microporous since the Acquisition. Mr. Eggleston and Mr. Gaugl will continue as the Plant Managers for Piney Flats and Feistritz, respectively. They have a combined 23 years of experience in the industry, and have successfully managed the Piney Flats and Feistritz plants since well before the Acquisition.

Mr. McDonald will continue as Microporous's Vice President of Sales. With 41 years of experience in the industry, strong relationships with current Microporous customers, and an in-depth battery application and product knowledge, Mr. McDonald is an ideal leader for Sales at Microporous. Mr. Willis has 16 years of experience in the industry, and is fully capable of handling all human resources functions at Microporous. These key managers will work with Seven Mile's team to continue successful operation of the Microporous strategy and business and ensure a fluid transition post-divestiture.

Finally, all elements necessary to make Microporous a viable competitor will be transferred to Seven Mile as part of the divestiture. Most key functions to operate Microporous already reside at the plant level, including IT systems, customer service, customer invoicing, production planning, and purchasing. Both plants also will have adequate working capital at Closing, in addition to access to a substantial unfunded revolving credit facility to satisfy any

additional liquidity needs. And all intellectual property and know-how required to operate Microporous is included in the transaction.

In sum, Seven Mile's extensive management expertise, the leadership team that Seven Mile has assembled to run Microporous, and the Microporous assets that Seven Mile is acquiring will make Microporous a vibrant and durable competitor that restores and enhances competition in the Relevant Markets.

VI. THE PROPOSED DIVESTITURE WILL FULLY RESTORE COMPETITION AND WILL ACHIEVE THE REMEDIAL PURPOSES OF THE ORDER

Pursuant to the FTC's Statement on Negotiating Merger Remedies, the proposed divestiture must maintain or restore competition in the Relevant Markets, and achieve the remedial purposes of the Order,¹² which is to "to create an independent, viable, and effective competitor in the [Relevant Markets] and remedy[ing] the lessening of competition resulting from the Acquisition" as alleged by the Commission.¹³

As explained in greater detail below, as part of the divestiture, Microporous will be equipped with all of the assets and other ancillary relief necessary to ensure that the company will be an independent, viable, and effective competitor in the Relevant Markets. Further, the divestiture will remedy any lessening of competition resulting from the Acquisition alleged by the Commission, as Microporous will be wholly restored as an effective competitor for sales in the Relevant Markets.

¹² Negotiating Merger Remedies: Statement of the Bureau of Competition of the Federal Trade Commission 19 (Jan. 30, 2012), available at <http://www.ftc.gov/bc/bestpractices/merger-remediesmt.pdf>.

¹³ Order, ¶ II.H.

A. Piney Flats and Feistritz

Acquiring both Feistritz and Piney Flats puts Seven Mile in a strong competitive position. In particular, having both plants will allow Microporous to efficiently source and supply products to a global customer base. Microporous can utilize Feistritz to serve its European customer base and focus capacity at Piney Flats to serve its North American customers. For customers that prefer a supplier with global operations, Microporous will be an attractive supplier.

Feistritz's current operational status arguably puts Microporous in a better position to compete today than before the Acquisition. As of the Acquisition, Feistritz was still under construction and was not a fully operational facility. Today, Feistritz is a fully functional, thriving source of sales for Microporous. In addition, in 2011, Polypore invested \$300,000 in a debottlenecking project, which has increased Feistritz capacity by fifteen percent. The Feistritz plant makes Microporous strategically poised to grow, and to expand supply to customers in Eastern Europe, Russia, and Africa.

B. Intellectual Property

To ensure that Seven Mile will be able to continue operations at both the Piney Flats and Feistritz without disruption, the Agreement confers to Seven Mile a perpetual, worldwide, royalty-free license to Daramic technology used at either facility (the Shared Intellectual Property License). As noted by the Commission, the Shared Intellectual Property License will allow Microporous to benefit from the improvements and alterations Polypore incorporated in the products by using Daramic pre-Acquisition intellectual property. In addition, the Agreement prohibits Polypore from suing Microporous to block access to any technology Polypore owned as of Closing, if such suit would hinder Microporous's ability to compete in the Relevant

Markets. These protections will ensure that Microporous is equipped to continue production post-divestiture without interruption.

C. Technical and Transition Services Agreements

To ensure that operations are smoothly transitioned, Polypore also has agreed to provide technical and transition services to Microporous for a period of up to two years following divestiture. Transition services will include support with respect to information technology, finance and accounting, treasury, payroll, human resources/employee benefits, sales/marketing, insurance risk management, procurement, and administrative and logistical support. Technical services will include separator analysis support, technical and analytical support, training, customer support, and manufacturing support.

Polypore believes that the Technical Services Agreement and Transition Services Agreement provide the necessary support to ensure that Microporous will succeed in the Relevant Markets.

D. Customers

Since the Acquisition, Polypore has preserved and reinforced Microporous's strong relationship with key customers. Microporous's proposed management team has undertaken significant efforts to ensure that Microporous customers have been appropriately informed about the transition of Microporous ownership to Seven Mile and to respond to customer inquiries regarding the transition. In addition, Section 5.3(c) of the Agreement requires both Polypore and Seven Mile to use commercially reasonable efforts to participate in joint communications and/or meetings with customers and suppliers regarding the sale of Microporous and the transition of the business from Polypore to Seven Mile. Microporous's proposed management team is fully confident that the transition of customer relationships will be seamless.

E. Increased Competition

The divestiture of Microporous to Seven Mile will restore Microporous as a competitor in the deep-cycle, motive, and SLI markets.¹⁴ Microporous's independent presence in the deep-cycle and motive markets will result in increased competition. In the motive and SLI markets, Microporous will be able to expand capacity in both North America and Europe and can become a viable force against current competitors in those regions while providing increased supply.

In addition, any likelihood of coordinated effects in the Relevant Markets will be significantly reduced following the divestiture of Microporous to Seven Mile.¹⁵ First, as a result of the divestiture, Microporous will be restored as a third competitor in the SLI market, eliminating any presumption that coordinated effects are likely. Second, the Commission acknowledged that battery separators are differentiated products that are, oftentimes, sold through large negotiated contracts.¹⁶ Accordingly, the Commission noted that these factors "make it more difficult for sellers to coordinate on price and increase the incentives for sellers to deviate from any coordinated pricing arrangements."¹⁷ By reinstating Microporous as a third, viable competitor in the SLI market and eliminating a presumption of coordinated effects, any potential for coordinated effects will be absent.

¹⁴ The Commission found that the Acquisition was reasonably likely to substantially lessen competition in the deep-cycle-, motive, and SLI markets. Opinion, pp.26-27.

¹⁵ The Commission determined that Polypore's acquisition of Microporous resulted in a duopoly in the SLI market, and noted that the duopoly created a presumption of anticompetitive coordinated effects. Opinion, p. 31.

¹⁶ Opinion, p. 32.

¹⁷ Opinion, p. 32.

VII. REQUEST FOR EXPEDITIOUS APPROVAL

Polypore requests expedited approval of the proposed divestiture of Microporous to Seven Mile as soon as possible after the expiration of the public comment period, and in particular, no later than December 12, 2013.

Approval by December 12, 2013 is necessary in order to ensure that Polypore is able to comply with the Order.¹⁸ Therefore, time is of the essence in obtaining approval for the sale of Microporous to Seven Mile.

In addition, prompt approval and consummation of the divestiture of Microporous to Seven Mile will further the purposes of the Order and is in the interests of customers. Expeditious approval of the transaction will remove the uncertainty facing customers and employees over the ownership of Microporous. FTC Staff are already familiar with Seven Mile as a result of Polypore's extensive engagement with the FTC throughout the divestiture process, including detailed descriptions of Seven Mile's involvement in the divestiture process in monthly compliance reports and the second annual compliance report. The Staff have also spoken extensively with Seven Mile's senior management team to confirm that Seven Mile is the ideal acquirer of Microporous.

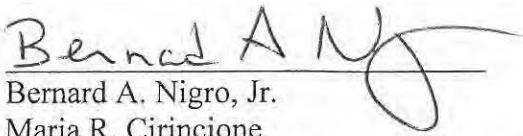
Polypore and Seven Mile are prepared to close the transaction as soon as Commission approval is obtained, and in any case, no later than three business days after Commission approval, as stipulated in Section 8.1 of the Agreement. For the foregoing reasons, Polypore respectfully requests that the Commission approve the proposed divestiture of Microporous to Seven Mile, as embodied in the enclosed Agreement, as soon as practicable after expiration of the public comment period, and in particular by December 12, 2013.

¹⁸ Paragraph II.A. of the Order requires Polypore to divest Microporous by December 26, 2013.

VIII. REQUEST FOR CONFIDENTIAL TREATMENT

This petition, including the enclosed Agreement and related documents, contains certain confidential and competitively-sensitive business information relating to the divestiture of Microporous. Disclosure of such confidential information may prejudice Polypore and Seven Mile, and cause harm to the ongoing competitiveness of Microporous. Pursuant to Sections 2.41(f)(4) and 4.9(c) of the FTC's Rules of Practice and Procedure,¹⁹ Polypore has redacted such information from the public version of this petition, and requests confidential treatment for such information under Section 4.10(a)(2) of the FTC's Rules of Practice and Procedure²⁰ and Sections 552(b)(4) and (b)(7) of the Freedom of Information Act.²¹ In the event that a determination is made that any material marked as confidential is not subject to confidential treatment, Polypore requests that the FTC provide immediate notice of that determination to Bernard A. Nigro, Jr. and Maria R. Cirincione, and an adequate opportunity to appeal such a decision.

Respectfully submitted,


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Counsel for Polypore International, Inc.

Dated: September 24, 2013

¹⁹ 16 C.F.R. §§ 2.41(f)(4) and 4.9(c).

²⁰ 16 C.F.R. § 4.10(a)(2).

²¹ 5 U.S.C. §§ 552(b)(4) and 552(b)(7).