

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FEDERAL TRADE COMMISSION)	Civil Action No.
)	
Plaintiff,)	PLAINTIFF'S CONSENT MOTION
)	FOR ENTRY OF STIPULATED FINAL
v.)	JUDGMENT AND ORDER FOR
)	PERMANENT INJUNCTION AND
SAN JUAN IPA, INC.)	CIVIL PENALTY AND
)	MEMORANDUM IN SUPPORT
Defendant.)	

Plaintiff, the Federal Trade Commission (“Commission”), having filed its Complaint in the above-captioned case, and having filed on this date a Stipulated Final Judgment and Order for Permanent Injunction and Civil Penalty (“Stipulated Order”), hereby moves this Court for entry of the Stipulated Order against Defendant San Juan IPA, Inc. (“San Juan”). By agreement of the parties, the Final Judgment provides for the payment by San Juan of civil penalties in the amount of \$263,000 and imposes additional injunctive relief. The Commission has conferred with San Juan regarding this motion and San Juan consents to the request for the Court to enter the Final Judgment.

BACKGROUND

The Commission filed this action pursuant Sections 5 and 16(a)(1) of the Federal Trade Commission Act, 15 U.S.C. §§ 45 and 56(a)(1), to seek relief for violations of its final administrative order. As alleged in the Complaint, San Juan violated the Commission’s Decision and Order issued in Docket No. C-4 (“FTC Order”). Following an investigation

by the Commission, San Juan and the Commission reached a settlement of the Complaint allegations for civil penalties and additional injunctive relief.

STATEMENT OF POINTS AND AUTHORITIES

This Court's role in evaluating the reasonableness of a proposed consent order is limited. See *Citizens for a Better Env't v. Gorsuch*, 718 F.2d 1117, 1125-26 (D.C. Cir. 1983). As a district court has the "power to enter a consent decree without first determining that a statutory violation has occurred." (citing *Swift & Co. v. United States*, 276 U.S. 311, 327 (1928)), its duty is only to "satisfy itself of the settlement's 'overall fairness to beneficiaries and consistency with the public interest.'" (quoting *United States v. Trucking Emps., Inc.*, 561 F.2d 313, 317 (D.C. Cir. 1977)).

In approving a settlement, this Court "need not inquire into the precise legal rights of the parties nor reach and resolve the merits of the claims or controversies." *Idaho Conservation League*, 811 F.3d 502, 515 (D.C. Cir. 2016) (quoting *Metro. Hous. Dev. Corp. v. Vill. of Arlington Heights*, 616 F.2d 1006, 1014 (7th Cir. 1980)). Rather, this Court "need only determine that the settlement is fair, adequate, reasonable, and appropriate under the particular facts and that there has been valid consent by the concerned parties."

The proposed settlement memorialized in the Stipulated Order is fair, adequate, reasonable, and appropriate. The negotiated civil penalty of \$263,000 is reasonable in view of San Juan's violations and financial condition. The Stipulated Order also imposes record retention, order distribution, and compliance reporting requirements on San Juan. In addition, the Stipulated Order allows any payor to terminate any contract with San Juan and extends the FTC Order by five years. The injunctive relief is appropriate to allow the Commission to adequately monitor San Juan's conduct in the future.

The civil penalty and injunctive relief will serve the public interest by deterring San Juan from future violations and signaling to other respondents to Commission orders that Commission orders cannot be violated without consequence. It will also demonstrate the Commission's commitment to monitoring the compliance by respondents subject to Commission orders and to enforce its orders where respondents fail to comply. In addition, entry of the Stipulated Order is in the public interest because it will vindicate the authority of the Commission and rule of law.

CONCLUSION

For the above reasons, the Commission respectfully requests that the Court enter the attached Final Judgment.

Respectfully submitted,

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