[Investigation No. 731–TA–747 (Preliminary)

Fresh Tomatoes From Mexico; Import Investigation

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Mexico of fresh chilled tomatoes, provided for in subheadings 0702.00.20, 0702.00.40, 0702.00.60, and 9906.07.01 through 9906.07.09 of the Harmonized Tariff Schedule of the United States,[3] that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On April 1, 1996, a petition was filed by counsel on behalf of the Florida Tomato Growers Exchange, Orlando, FL, Florida Fruit and Vegetable Association, Orlando, FL, Florida Farm Bureau Federation, Gainesville, FL, South Carolina Tomato Association, Inc., Charleston, SC, Gadsden County Tomato Growers Association, Inc., Quincy, FL, Accomack County Farm Bureau, Accomack, VA, Florida Tomato Exchange, Orlando, FL, Bob Crawford, Commissioner of Agriculture, Florida Department of Agriculture and Consumer Services, Tallahassee, FL, and the Ad Hoc Group of Florida, California, Georgia, Pennsylvania, South Carolina, Tennessee, and Virginia Tomato Growers, with the Commission and Commerce. The petition alleges that an industry in the United States is materially injured or threatened with material injury by reason of less than fair value imports of fresh tomatoes from Mexico. Accordingly, effective April 1, 1996, the Commission instituted antidumping Investigation No. 731–TA–747 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of April 10, 1996 (61 FR 15968). The conference was held in Washington, DC, on April 22, 1996, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on May 16, 1996. The views of the Commission are contained in USITC Publication 2967 (May 1996), entitled Fresh Tomatoes from Mexico: Investigation No. 731–TA–747 (Preliminary).

By order of the Commission.

Issued: May 28, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–14134 Filed 6–5–96; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Vice Chairman Nuzum not participating.

[3] For purposes of this investigation, fresh or chilled tomatoes are all fresh or chilled tomatoes (fresh tomatoes) except those which are grown for processing. Processing is defined to include preserving by any commercial process, such as canning, dehydrating, drying or the addition of chemical substances, or converting the tomato product into juices, sauces, or purees. Further, such excluded imports of fresh tomatoes for processing are accompanied by an ''Importer's Exempt Commodity Form'' (FV–6) pursuant to 5 CFR 980.501(a)(2) and 980.212(1). Fresh tomatoes that are imported for cutting up, not further processed (e.g., tomatoes used in the preparation of fresh salsa or salad bars), and not accompanied by an FV–6 form are covered by the scope of the investigation.

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Association of Family Practice Residency Directors; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and a Competitive Impact Statement have been filed with the United States District Court for the Western District of Missouri in *United States* v. *Association of Family Practice Residency Directors*, Civil No. 96–575–CV–W–2 (W.D. Mo., filed May 28, 1996).

The Complaint alleges that the defendant entered into an agreement with the purpose and effect of restraining competition, in violation of Section 1 of the Sherman Act, 15 U.S.C. 1, by limiting competition among family practice residency programs to employ family practice residents. The proposed Final Judgment enjoins the continuance or recurrence of this practice.

Public comment on the proposed Final Judgment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the Federal Register and filed with the Court. Comments should be directed to Gail Kursh, Chief; Health Care Task Force; United States Department of Justice, Antitrust Division, 325 Seventh Street, NW., Room 400; Washington, DC 20530 (telephone: 202/307–5799).

Rebecca P. Dick,

Deputy Director of Operations.

United States District Court for the Western District of Missouri Western Division

United States of America, Plaintiff, v. Association of Family Practice Residency Director, Defendant. Civil Action No.: 96–575–CV–W–2, Judge Gaitan.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the Western District of Missouri;

2. The parties consent that a Final Judgment in the form hereto attached may be filled and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that the plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on the defendant and by filing that notice with the Court; and

3. The defendant agrees to be bound by the provisions of the proposed Final Judgment pending its approval by the Court. If the plaintiff withdraws its consent, of if the proposed Final Judgment is not entered pursuant to the terms of the Stipulation, this Stipulation shall be of no effect whatsoever, and the making of this Stipulation shall be without prejudice to any party in this or in any other proceeding.

For Plaintiff United States of America:
Anne K. Bingaman,
Assistant Attorney General.
Joel I. Klein,
Deputy Assistant Attorney General.
Rebecca P. Dick,
Deputy Director, Office of Operations.
Gail Kursh,
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Mark J. Botti,
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William E. Berlin,
Attorney, U.S. Department of Justice, Antitrust Division, Health Care Task Force, Room 450, Liberty Place Bldg., 325 Seventh Street, NW., Washington, DC 20530, (202) 307–0827.
Alleen S. VanBebber,
Deputy United States Attorney, Missouri Bar No. 41460, 1201 Walnut St., Suite 2300, Kansas City, Missouri 64106, (816) 426–3130.
For Defendant Association of Family Practice Residency Directors:
James R. Hobbs,
Wyrsch, Atwell, Mirakian, Lee & Hobbs, P.C., 1300 Mercantile Tower, 1101 Walnut, Kansas City, Missouri 64106–2122, (816) 221–0080.

Final Judgment

Plaintiff, the United States of America, having filed its Complaint on May 28, 1996, and plaintiff and defendant, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this final Judgment constituting any evidence against or an admission by any party regarding any issue of fact or law;

Now, Therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is hereby ordered, adjudged, and decreed:

I

Jurisdiction

This Court has jurisdiction over the subject matter and each of the parties to this action. The Complaint states claims upon which relief may be granted against the defendant under Section 1 of the Sherman Act, 15 U.S.C. 1.

II

Definitions

As used in this Final Judgment:

(A) ''AFPRD'' means the Association of Family Practice Residency Directors, each of its successors, divisions, parents, subsidiaries, and affiliates, each other person directly or indirectly, wholly or in part, owned or controlled by it, and each partnership or joint venture to which any of them is a party, and all of their directors, officers, and employees;

(B) ''Contracting with'' means to negotiate, offer, accept, execute, or enter into an employment contract or agreement;

(C) ''Current family practice residents'' means persons already enrolled in, committed to or employed by a family practice or other residency;

(D) ''Inducements'' means salary, bonuses (signing, retention or other), loan forgiveness of repayment, housing allowance or subsidy, transportation allowance or subsidy, moonlighting payment, permissible moonlighting when on-call, additional payment for required on-call activity, moving expenses, travel expenses, reimbursement for any expense in an amount which exceeds the actual receipted expense and any other employment benefit or incentive;

(E) ''The Match'' means the annual placement process conducted by the National Resident matching Program through which medical students and hospital residency programs select and are matched with their preferences;

(F) ''Person'' means any natural person, corporation, firm, company, sole proprietorship, partnership, joint venture, association, institute, governmental unit, or other legal entity; and

(G) ''Prespective family practice residents'' means medical students or other candidates for residency in a family practice program.

III

Applicability

This Final Judgment applies to AFPRD and to all other persons who receive actual notice of this Final Judgment by personal service or otherwise and then act or participate in active concert with defendant.

IV

Prohibited Conduct

Defendant is enjoined from:

(A) Directly or indirectly prohibiting or restraining any person offering a family practice residency program from:

(1) Competing to attract, obtain or retain the services of current or prospective family practice residents by offering or providing any or differing amounts, types, or combinations of inducements, including inducements offered or provided to current or prospective family practice residents in the same residency year;

(2) Offering or providing confidential or non-written terms and conditions of inducements to current or prospective family practice residents;

(3) Directly or indirectly soliciting, recruiting or contracting with current family practice residents of other residency programs; and

(4) Considering applications submitted by current family practice residents and contracting with those residents without the knowledge or approval of the program director of any other residency program;

(hereinafter ''practices identified in Section IV(A)'').

(B) Directly or indirectly adopting, disseminating, publishing, or seeking adherence to any code of ethics, rule, bylaw, resolution, policy, guideline, standard, manual, or policy statement that has the purpose or effect of prohibiting or restraining AFPRD members from engaging in any of the practices identified in Section IV(A) above, or that states or implies that any of these practices are, in themselves, unethical, unprofessional, or contrary to any policy of the AFPRD.

V

Compliance Program

Defendant is ordered to:

(A) Within sixty (60) days of the date of entry of this Final Judgment, amend its code of ethics, rules, bylaws, resolutions, policies, guidelines, standards, manuals, or policy statements, and specifically those provisions or parts of provisions located at Sections 2(B), 2(C), 2(E)(1), 2(E)(2), and 2(E)(3) of the ''AFPRD Guidelines on the Ethical Recruitment of Family Practice Residents,'' to comply with Section IV above, and provide a copy of the final amended guidelines to plaintiff;

(B) Send a copy of this Final Judgment, along with a written statement that there are no longer any AFPRD ethical guidelines or rules that state or imply that any of the practice identified in Section IV(A) above are, in themselves, unethical, unprofessional, or contrary to any policy of the AFPRD, regardless of anything defendant may have said about these practices in the past, to each current AFPRD member, within sixty (60) days from the date of entry of this Final Judgment, and thereafter sending annually such written statement to each current AFPRD member for a period of five (5) years after the date of entry of this Final Judgment;

(C) Send a copy of this Final Judgment to each new AFPRD member no later than ten (10) days after membership in the AFPRD is granted, and thereafter annually until five (5) years after the date of entry of this Final Judgment;

(D) Distribute within sixty (60) days from the entry of this Final Judgment, a

copy of the Final Judgment and Competitive Impact Statement to all directors and officers of defendant;

(E) Distribute in a timely manner a copy of the final Judgment and Competitive Impact Statement to any person who succeeds to a position described in Paragraph V(D);

(F) Brief annually in writing or orally those persons designated in Paragraphs V (D) and (E) on the meaning and requirements of this Final Judgment and the antitrust laws, including penalties for violation thereof;

(G) Obtain from those persons designated in Paragraphs V (D) and (E) annual written certifications that they (1) have read, understand, and agree to abide by this Final Judgment, (2) understand that their noncompliance with this Final Judgment may result in conviction for criminal contempt of court and imprisonment and/or fine, and (3) have reported violations, if any, of this Final Judgment of which they are aware to counsel for defendant; and

(H) Maintain for inspection by plaintiff a record of recipients to whom this Final Judgment and Competitive Impact Statement have been distributed and from whom annual written certifications regarding this Final Judgment have been received.

VI

Certifications

(A) Within 75 days after entry of this Final Judgment, defendant shall certify to plaintiff that it has complied with the provisions of Sections V (A)–(B) above, and that it has made the distribution of the Final Judgment and Competitive Impact Statement as required by Section V(D); and

(B) For 10 years after the entry of this Final Judgment, on or before its anniversary date, defendant shall certify annually to plaintiff whether it has complied with the provisions of Sections V applicable to it.

VII

Plaintiff's Access

For the sole purpose of determining or securing compliance with this Final Judgment, and subject to any recognized privilege, authorized representatives of the United States Department of Justice, upon written request of the Assistant Attorney General in charge of the Antitrust Division, shall on reasonable notice be permitted:

(A) Access during regular business hours of defendant to inspect and copy all records and documents in the possession or under the control of defendant relating to any matters contained in this Final Judgment;

(B) To interview officers, directors, employees, and agents of defendant, who may have counsel present, concerning such matters; and

(C) To obtain written reports from defendant, under oath if requested, relating to any matters contained in this Final Judgment.

VIII

Jurisdiction Retained

This Court retains jurisdiction to enable any of the parties to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions.

IX

Expiration of Final Judgment

This Final Judgment shall expire ten (10) years from the date of entry.

X

Public Interest Determination

Entry of this Final Judgment is in the public interest.

United States District Judge

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) (''APPA''), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

On May 28, 1996, the United States filed a civil antitrust complaint alleging that defendant, the Association of Family Practice Residency Directors (''AFPRD''), and others entered into an agreement that restrained competition among family practice residency programs to employ family practice residents, and constituted a *per se* violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The Complaint seeks injunctive relief to enjoin continuance or recurrence of this violation.

The United States filed with the Complaint a proposed Final Judgment intended to resolve this matter. The Court's entry of the proposed Final Judgment will terminate this action, except that the Court will retain jurisdiction over the matter for any further proceedings that may be required to interpret, enforce, or modify the Judgment, or to punish violations of any of its provisions.

Plaintiff and the defendant have stipulated that the Court may enter the proposed Final Judgment after compliance with the APPA, unless prior to entry the plaintiff withdraws its consent. The proposed Final Judgment provides that it entry does not constitute any evidence against, or admission by, any party concerning any issue of fact or law.

The present proceeding is designed to ensure full compliance with the public notice and other requirements of the APPA. In the Stipulation to the proposed Final Judgment, the defendant has agreed to be bound by the provisions of the proposed Final Judgment pending its entry by the Court.

II

Practices Giving Rise to the Alleged Violations

The AFPRD is a national professional association, located in Kansas City, Missouri, that was established in 1989 to represent the directors of hospital residency programs in the speciality of family practice medicine. Currently, the AFPRD has approximately 427 member directors, who represent approximately 95% of all family practice residency programs nationwide.

In the late 1980s, competition increased among family practice residency programs for senior medical students, as well as for residents already employed by other family practice residencies, to fill vacancies for first- and second-year positions in those programs. Family practice residency programs increasingly began actively and directly to solicit the transfer of first year residents employed by other family practice residency programs. The solicitations sometimes took place without the knowledge of the other programs.

During the same period, family practice residency programs also increasingly began to offer economic inducements to attract both senior medical students and current family practice residents. These inducements were sometimes offered to medical students before the annual placement process, known as the ''Match,'' conducted by the National Resident Matching Program, in which a computer program matches the preferences of senior medical students and hospital residency programs.

Beginning in approximately 1990, the AFPRD began to receive an increasing number of complaints from its member program directors about competition

form other family practice residency programs for both senior medical students and current residents. For the purpose of eliminating the growing competition among family practice residency programs to attract senior medical students and current family practice residents to their programs, in 1992 the ARPRD promulgated ''Guidelines of the Ethnical Recruitment of Family Practice Residents'' (the ''Guidelines'').

The Guidelines embody an agreement among the member family practice residency program directors to limit that competition by: (a) Not directly soliciting family practice residents from other residencies; (b) not offering contracts to applicants who are current residents in other family practice programs without the knowledge of the other program director; (c) making each incentive and other employment benefit offered by any applicant available to all applicants; and (d) not providing any inducements before the Match.

After being distributed to and approved by the AFPRD membership, the Guidelines were distributed to and endorsed by other organizations concerned with family medicine or resident recruiting, and since that time have been provided to members and proxies at the AFPRD's annual business session, as well as to any individual upon request. In order to ensure compliance, the AFPRD responds to every complaint regarding a possible violation of the Guidelines by contacting both the complainant and the alleged violator to investigate the complaint, and where a violation has occurred, by informing the program director that his or her actions have violated the Guidelines.

Since the AFPRD disseminated the Guidelines, competition among family practice residency programs to attract senior medical students and current family practice residents to those programs has been significantly reduced, and the terms and conditions of their employment have been less attractive than they could have obtained in a free and competitive market.

Based on the facts described above, the Complaint alleges the AFPRD and others engaged in a contract, combination, or conspiracy that was *per se* unlawful under Section 1 of the Sherman Act, 15 U.S.C. 1, by:

(a) Promulgating and agreeing to the Guidelines governing resident recruiting by family practice residency programs:

(b) Through those Guidelines, prohibiting the use of certain recruiting practices such as directly soliciting current residents in other programs, offering a contract to a resident in another program without providing notice to that program's director, and regulating or restricting the payment of certain economic inducements; and

(c) Disseminating and ensuring compliance with the Guidelines.

III

Explanation of the Proposed Final Judgment

The proposal Final Judgment is intended to prevent the AFPRD and its member program directors from restraining competition in the future among family practice residency programs seeking to attract senior medical students and current family practice residents for their programs for the upcoming year.

A. Scope of the Proposed Final Judgment

Section III of the proposed Final Judgment provides that the Final Judgment shall apply to the defendant and to all other persons who receive actual notice of the proposed Final Judgment by personal service or otherwise and then act or participate in active concert with the defendant.

B. Prohibitions and Obligations

Sections IV and V of the proposed Final Judgment contain the substantive provisions of the Judgment.

Section IV describes specific prohibited conduct. Section IV(A)(1) enjoins the defendant from directly or indirectly barring any family practice residency program from competing to attract, obtain, or retain the services of current or prospective family practice residency programs from offering or providing any inducements to attract current or prospective family practice residents in the same residency year.[1]

Section IV(A)(2) enjoins the AFPRD from directly or indirectly prohibiting any family practice residency program from offering confidential or spoken inducements in order to attract current or prospective family practice residents.

Section IV(A)(3) enjoins the defendant from prohibiting any family practice residency program from directly or indirectly soliciting, recruiting, or contracting with current family practice residents of other residency programs. Section IV(A)(4) enjoins the defendant from prohibiting any person from considering applications submitted by current family practice residents or contracting with those residents without the knowledge or approval of the program director of any other residency program.[2]

Similarly, Section IV(B) enjoins the AFPRD from establishing any guideline, code of ethics, or other standard that prohibits or restrains AFPRD members from engaging in any of the program director of any other residency program.[2]

Similarly, Section IV(B) enjoins the AFPRD from establishing any guideline, code of ethics, or other standard that prohibits or restrains AFPRD members from engaging in any of the practices identified in Section IV(A) of the Final Judgment, as described above, or that states or implies that any of these practices are, in themselves, unethical, unprofessional, or contrary to any policy of the AFPRD.

Section V of the proposed Final Judgment contains additional provisions requiring the defendant to take certain affirmative actions to publicize the terms of this proposed Final Judgment and to maintain an antitrust compliance program. Section V(A) requires the AFPRD to, within sixty (60) days of the date of entry of the Final Judgment, amend the Guidelines, and specifically those provisions or parts of provisions located at Sections 2(B), 2(C) 2(E)(1), 2(E)(2), and 2(E)(3) of the Guidelines, to comply with Section IV above, and provide a copy of the final amended Guidelines to the plaintiff.

Section V(B) requires the AFPRD to distribute a copy of the Final Judgment, along with a written statement that there are no longer any AFPRD ethical guidelines or rules that suggest that any of the practices identified in Section IV(A), as described above, are in themselves, unethical, unprofessional, or contrary to any policy of the AFPRD, regardless of anything defendant may have said about these practices in the past. The AFPRD is to send this statement and the Final Judgment to each current AFPRD member within sixty (60) days from the date of entry of this Final Judgment, and thereafter annually for a period of five (5) years.

Section V(C) requires the defendant to send a copy of this Final Judgment to

[1] ''Current family practice residents'' is defined in Section II a ''persons already enrolled in, committed to, or employed by a family practice or other residency,'' and ''Prospective family practice residents'' is defined in that Section as ''medical students or other candidates for residency in a family practice program.'' ''Inducements'' is defined in Section II as ''salary, bonuses (signing, retention, or other), loan forgiveness or repayment, housing allowance or subsidy, transportation allowance or subsidy, moonlighting payment, permissible moonlighting when on-call, additional payment for required on-call activity, moving expenses, travel expenses, reimbursement for any expense in an amount which exceeds the actual receipted expense, and any other employment benefit or incentive.''

[2] ''Contracting with,'' as defined in Section II of the Final Judgment, means ''to negotiate, offer, accept, execute, or enter into an employment contract or agreement.''

each new AFPRD member no later than ten (10) days after it is admitted to membership, and thereafter annually until five (5) years after the date of entry of the Final Judgment. Section V(D) requires the AFPRD to distribute within sixty (60) days from the entry of the Final Judgment, a copy of the Final Judgment and this Competitive Impact Statement to all directors and officers of defendant, and Section V(E) requires defendant to distribute in a timely manner a copy of the Final Judgment and Competitive Impact Statement to any successor directors and officers in the future.

Under Section V(F), the defendant must brief annually in writing or orally its directors and officers or their successors on the meaning and requirements of this final Judgment and the antitrust laws, including penalties for violating them, and under Section V(G), obtain from those persons annual written certifications that they (1) have read, understand, and agree to abide by this Final Judgment, (2) understand that their noncompliance with this final Judgment may result in conviction for criminal contempt of court and imprisonment and/or fine, and (3) have reported all violations of this Final Judgment of which they are aware to counsel for defendant. Section V(H) requires defendant to maintain for inspection by plaintiff a record of recipients to whom the Final Judgment and Competitive Impact Statement have been distributed and from whom annual written certifications regarding the Final Judgment have been received.

Section VI of the proposed Final Judgment requires the defendant to certify its compliance with specified obligations of Section V(A) and (B). Section VII sets forth procedures by which plaintiff may obtain access to information needed to determine or secure defendant's compliance with the proposed Final Judgment. Finally, Section IX provides that the Judgment will expire ten (10) years after the date of its entry.

C. *Effect of the Proposed Final Judgment on Competition*

The relief in the proposed Final Judgment is designed to remedy the violation alleged in the Complaint and prevent its recurrence. The Complaint alleges that the AFPRD violated Section 1 of the Sherman Act by agreeing upon and establishing guidelines to govern resident recruiting that restrained competition among family practice residency programs to employ family practice residents.

The proposed Final Judgment eliminates the restraint on competition among family practice residency programs by enjoining the AFPRD from prohibiting its members from engaging in these competitive recruiting practices, and from adopting any guidelines, code of ethics, or other rules which prohibit these practices or which state or imply that they are unethical. The proposed Final Judgment also requires the AFPRD to withdraw the provisions from its current Guidelines that prohibit these resident recruiting practices and to notify its members that it has done so.

The proposed Final Judgment contains provisions adequate to prevent further violations of the type upon which the Complaint is based and to remedy the effects of the alleged conspiracy. The proposed Final Judgment's injunctions will restore the benefits of free and open competition to the market for the services of family practice residents.

IV

Alternative to the Proposed Final Judgment

The alternative to the proposed Final Judgment would be a full trial on the merits of the case. In the view of the Department of Justice, such a trial would involve substantial costs to the United States and defendant and is not warranted because the proposed Final Judgment provides all of the relief necessary to remedy the violation of the Sherman Act alleged in the Complaint.

V

Remedies Available To Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and a reasonable attorney's fee. Entry of the proposed Final Judgment will neither impair nor assist in the bringing of such actions. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent lawsuit that may be brought against the defendant in this matter.

VI

Procedures Available for Modification of the Proposed Final Judgment

As provided by Sections 2 (b) and (d) of the APPA, 15 U.S.C. 16(b) and (d), any person believing that the proposed Final judgment should be modified may submit written comments to Gail Kursh, Chief; Health Care Task Force; United States Department of Justice; Antitrust Division; 325 Seventh Street, NW; Room 400; Washington, DC 20530, within the 60-day period provided by the Act. All comments received, and the Government's responses to them, will be filed with the Court and published in the Federal Register. All comments will be given due consideration by the Department of Justice, which remains free, pursuant to Paragraph 2 of the Stipulation, to withdraw its consent to the proposed Final Judgment at any time before its entry, if the Department should determine that some modification of the Final Judgment is necessary to protect the public interest. Moreover, Section VIII of the proposed Final Judgment provides that the Court will retain jurisdiction over this action, and that the parties may apply to the Court for such orders as may be necessary or appropriate for the modification, interpretation, or enforcement of the proposed Final Judgment.

VII

Determinative Documents

No materials and documents of the type described in Section 2(b) of the APPA, 15 U.S.C. 16(b), were considered in formulating the proposed Final Judgment. Consequently, none are filed herewith.

Respectfully submitted,

Mark J. Botti,

Attorney.

William E. Berlin,

Attorneys, Antitrust Division, U.S. Dept. of Justice, 325 Seventh Street, N.W., Room 450, Washington, D.C. 20530, (202) 307–0827.

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[FR Doc. 96–14075 Filed 6–5–96; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Jerry Neil Rand, M.D.; Denial of Registration

On September 5, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Jerry Neil Rand, M.D., (Respondent) of San Diego, California, notifying him of an opportunity to show cause as to why DEA should not deny his application for a DEA Certificate of Registration, under 21 U.S.C. 823(f), as being inconsistent with the public interest. Specifically, the Order to Show Cause alleged, in relevant part, that in