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UNITED STATES OF AMERICA,
c/o Department of Justice
Washington, D,C. 20530,
Plaintiff,

v,

AUTOMATIC DATA PROCESSING, INC. One ADP Boulevard
Roseland, New Jersey 07068-1728, Defendant

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CASE NUMBER 1:96CV00606

JUDGE: Royce C. Lamberth

DECK TYPE: Civil General

DATE STAMP: 03/27/96

MOTION FOR ENTRY OF JUDGMENT

Plaintiff, having filed its Complaint in the above-captioned case, and having filed this

date a Stipulation and proposed Final Judgment, hereby moves this Court for entry of a Final

Judgment against Defendant Automatic Data Processing, Inc, (" ADP"), By agreement of the

parties, the Final Judgment against ADP provides for the payment of a civil penalty of

$2,970,000,00 under Section 7A(g)(I) of the Clayton Act, 15 U,S.c. § ISa(g)(l). The

Stipulation between the parties further provides that either party may move for entry of

judgment, if the United States has nor withdrawn its consent.

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The Complai-nt ill this action alleges that Defendant. \Dr. in acquil'ltlg assets or .. \utolnto.
Inc. (,'Autofnfo") violated Section (a) of Title II of the Hart-Scott-Rodino \ntitrust Improvements Act of 1976 ("Hart-Scott-Rodino Act" or "Act"), I 5 USc. ~ 18a, which requires certain acquiring persons and certain persons \vhose voting securities or assets are acquired to file notification with the Department of Justice and the Federal Trade Commission and to observe a waiting period before consummating certain acquisitions of voting securities or assets. The Complaint alleges that Defendant ADP \\JS continuously in violation of the Hart-Scott-Rodino Act each day of the period from on or about April 1, 1995, at least until January 23, 1995, with respect to the acquisition of assets of Autolnfo. Section (g)(l) of the Hart-Scott-Rodino Act, 15 U.S.c. § ISa(g)(l), provides that any person who fails to comply with the Act shall be liable to the United States for a civil penalty of not more than $10,000 for each day during which such person is il. violation of the Act. Accordingly, the CCLlplaint seeks "an appropriate civil penalty." As the Stipulation and proposed Final Judgment indicate, Defendant ADP has agreed to pay a civil penalty of$2,970,000.00 within 30 days of entry of the Final Judgment.
The United States does not believe that the procedures of the Antitrust Procedures and t

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Judgment. of

APr A are preparation by the l!nited States of a "compctiti\c impact statemcnt" I..''-:plai:ling the

proceeding and the Rroposed judgment. and the consideration hy the COLIrt nf the proposed

judgment's competitiw impact and its impact 011 the public gl..'nl..'rally ~lS \\1..'11 as indi\iduals

alleging specific injury from the violation set eorth in tLe complaint.

The procedures of the APPA are not required in this action because the Cc:nplaint seeks,

and the Final Judgment provides for, only the payment of civil penalties. In our view, a consent

judgment in a case seeking only monetary penalties is not the type of "consent judgment"

Congress had in mind "'hen it passed the APPA Civil penalties are intenJcd to penalize the

defendant for violating the law, and, unlike injunctive relief, have no "competitive impact," and

no effect on other persons or on the public generally, within the context of the APP A. The

legislative history of the APPA does not contain any indication that Congress intended to subject

settlements of civil penalty actions to its competitive impact review procedures.

Thus, courts to date have not required use of APPA procedures in cases involving only

the payment of civil penalties. Indeed, courts in this district have consistently entered consent

judgments for civil penalties under the Hart-Scott-Rodino Act without employing APPA

procedures.' Previously, in United States v. ARA Services, Inc., 1979-2 CCH Trade Cases

1 See, e.g., United States v. Pennzoil Compan:v, 1994-2 CCH Trade Cases' 70,760 (D.D.C.); United States v. Atlantic Richfield Company, 1992-1 Tf -0.034rates

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~ 62,86 I (ED. Mo.), a C0nsent judgment ccdling for both cqllit:Jble relief ;ltld CI\II peldtlc:-, \\:lS

:lpproved by the coqrt on August I·f. 1979. :lfter the l'nitcd States had taken the position in

APPA proceedings that the civil penalties component of that judgment \\:.~ llot open to public

objection. See 44 Fed. Reg. 4 I 583 (July 17. 1979).2 There

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are no circumstances favoring the

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