

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 1:12-CV-01598
)	
STANDARD PARKING CORPORATION,)	JUDGE: Leon, Richard J.
KCPC HOLDINGS, INC., and)	
CENTRAL PARKING CORPORATION,)	FILED:
)	
Defendants.)	
_____)	

**UNITED STATES’ MOTION AND SUPPORTING MEMORANDUM
TO ENTER FINAL JUDGMENT**

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h) (“APPA” or “Tunney Act”), Plaintiff the United States moves for entry of the proposed Final Judgment filed in this civil antitrust case. The proposed Final Judgment (attached hereto) may be entered at this time if the Court determines that entry is in the public interest. The United States and Defendants have stipulated to entry of the proposed Final Judgment once the requirements of the APPA are met, in the Asset Preservation Stipulation and Order entered by this Court on October 1, 2012. The United States is filing simultaneously with this motion a Certificate of Compliance setting forth the steps taken by the parties to comply with all applicable provisions of the APPA and certifying that the statutory waiting periods have expired. The Competitive Impact Statement (“CIS”) filed by the United States on September 26, 2012, explains why entry of the proposed Final Judgment is in the public interest. The United States has not filed any Response to Public Comments in this matter because no written comments were

filed by the public during the 60-day notice and comment period under the APPA. In view of the absence of public comments, the United States respectfully submits that no hearing is required in order for this Court to conclude that entry of the proposed Final Judgment is in the public interest. The United States recognizes, however, that the Court in its hearing on October 1, 2012 also indicated that a hearing would be held on the entry of the proposed Final Judgment. Accordingly, the United States is prepared to appear if and when the Court should schedule a hearing on this matter.

I. BACKGROUND

On September 26, 2012, the United States filed the Complaint in this matter, alleging that the acquisition of Defendants KCPC Holdings, Inc. and Central Parking Corporation by Defendant Standard Parking Corporation would give rise to a loss of competition in off-street parking services in 29 cities or parts of cities, as named in the Complaint, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

At the same time the Complaint was filed, the United States also filed an Asset Preservation Stipulation and Order and a proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the merger, and a CIS. As discussed in the CIS, the proposed Final Judgment is designed to preserve competition in the markets for off-street parking services in the 29 cities or parts of cities identified in the Complaint, by providing for the divestiture of certain parking facilities operated by Defendants as identified in Schedule A to the proposed Final Judgment. The proposed Final Judgment restricts Defendants from reacquiring the divested parking facilities within specified periods of time, and also contains provisions to

assist the Department in monitoring and enforcing compliance with the proposed Final Judgment.

The Asset Preservation Stipulation and Order provides that the proposed Final Judgment may be entered by the Court after the completion of the procedures required by the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. COMPLIANCE WITH THE APPA

The APPA requires a 60 period for the submission of public comments on a proposed Final Judgment. *See* 15 U.S.C. § 16(b). In compliance with the APPA, the United States filed a CIS in this Court on September 26, 2012; published the proposed Final Judgment and CIS in the *Federal Register* on October 3, 2012, *see* 77 Fed. Reg. 60,461-60,475 (2012); and caused a summary of the terms of the proposed Final Judgment to be published in *The Washington Post* for a total of seven days commencing on October 1, 2012 and ending on October 7, 2012. The 60-day period for public comments ended on December 6, 2012, and no written comments were received, so that the United States has not filed or published any Response to Public Comments.¹ The Certificate of Compliance, filed contemporaneously with this Motion, recites that all the requirements of the APPA have now been satisfied. It is therefore appropriate for the Court to make the public-interest determination required by 15 U.S.C. § 16(e) and to enter the Final Judgment.

¹ Under the APPA, 15 U.S.C. § 16(b) and (d), only “written comments” relating to the proposal for the consent judgment are to be considered by the United States, filed with the Court and published in the *Federal Register*.

III. STANDARD OF JUDICIAL REVIEW

Before entering the proposed Final Judgment, the Court is to determine whether the Judgment “is in the public interest.” *See* 15 U.S.C. § 16(e). In making that determination, the Court shall consider:

A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e).

In its CIS filed on September 26, 2012, the United States set forth the public-interest standard under the APPA and now incorporates those statements herein by reference. The public, including affected competitors and customers, have had the opportunity to comment on the proposed Final Judgment as required by law. As explained in the CIS, the proposed Final Judgment is within the range of settlements consistent with the public interest and the United States therefore requests that this Court enter the proposed Final Judgment.

IV. CONCLUSION

For the reasons set forth in this Motion and the CIS, the Court should find that the proposed Final Judgment is in the public interest and should enter the proposed Final Judgment. The United States respectfully requests that the proposed Final Judgment attached hereto be entered as soon as possible.

Dated: December 21, 2012

Respectfully submitted,

/s/ Carl Willner
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