

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,)
) CIV-ZLOCH
Plaintiff,) CASE NO. 96-6112
)
v.)
)
SCUBA RETAILERS)
ASSOCIATION, INC.,) **MOTION FOR ENTRY**
) **OF DEFAULT FINAL JUDGMENT**
Defendant.)
_____)

The undersigned counsel, on behalf of plaintiff, the United States of America, move this Court for entry of a default judgment as to defendant Scuba Retailers Association, Inc., upon the complaint heretofore filed and served upon the defendant, in accordance with the provisions of Rule 55(b)(2), Federal Rules of Civil Procedure, and in support thereof shows the Court the following.

1. On January 30, 1996, the United States filed in the United States District Court, Southern District of Florida, Fort Lauderdale Division, a Complaint alleging certain anticompetitive practices by defendant in violation of Section 1 of the Sherman

Act, 15 U.S.C. § 1. A copy of said Complaint is attached hereto as Exhibit 1 and is incorporated herein by reference.

2. On February 13, 1996, a copy of said Complaint and a Summons in a Civil Action were served by the United States Marshals Service upon James R. Estabrook, Executive Director of defendant, at Mr. Estabrook's place of business located at 59 Washington Street, Somerville, Massachusetts. A copy of the Process Receipt and Return and Summons is attached hereto as Exhibit 2 and is incorporated herein by reference.

3. On March 8, 1996, after more than twenty days, excluding the Birthday of Martin Luther King, Jr., had elapsed since the service of said Complaint and Summons upon defendant, and no Answer thereto having been served by defendant upon the United States, the United States notified James R. Estabrook, Executive Director of defendant, of the United States' intention to petition this Court for entry of a default judgment against defendant. A copy of said letter is attached hereto as Exhibit 3 and is incorporated herein by reference. No response to said letter has been received by the United States.

4. Defendant has failed to plead or otherwise defend this action, and the United States is entitled to judgment by default against defendant.

5. Pursuant to the provisions of Rule 55(b)(2), Federal Rules of Civil Procedure, this Court is empowered to enter a default judgment against the defendant for relief sought by

plaintiff in its complaint, and written notice of this action has been given to defendant as set forth in the attached affidavit.

PRAYER

WHEREFORE, plaintiff prays that this Court enter a judgment of default against defendant, and that defendant be enjoined and restrained from violating Section 1 of the Sherman Act, 15 U.S.C. § 1, as provided in the proposed Final Judgment filed contemporaneously with this Motion.

AFFIDAVIT

We, Richard E. Reed, Stephen C. Gordon, and Jeffrey L. Berhold, do hereby certify that the statements and allegations set forth in the foregoing Motion and the accompanying Memorandum are true and accurate to the best of our knowledge and belief.

Respectfully submitted,

_____/s/_____
RICHARD E. REED

_____/s/_____
STEPHEN C. GORDON

_____/s/_____
JEFFREY L. BERHOLD

Attorneys
Antitrust Division
U.S. Department of Justice
Suite 1176
75 Spring Street, S.W.
Atlanta, Georgia 30303
(404) 331-7100
FAX: (404) 331-7110