
THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

v.

SEAN A. PONCE, M.D.,

Defendant.

**CONSENT JUDGMENT AND
PERMANENT INJUNCTION**

Case No. 2:21-cv-00490-DBB

District Judge David Barlow

Plaintiff United States of America and Defendant Sean A. Ponce (collectively the “Parties”) stipulate to the entry of this Consent Judgment and Permanent Injunction (“Order”) to resolve the claims alleged in the Complaint.¹ The Parties inform the court of the following:

PARTIES

1. Plaintiff is the United States of America.
2. Defendant Sean A. Ponce (“Dr. Ponce”) is a resident of the District of Utah. At all times relevant to the Complaint, Dr. Ponce was a physician licensed by the State of Utah. Dr. Ponce was assigned registration number BP7540455 by the U.S. Drug Enforcement Administration (“DEA”) for dispensing controlled substances in the course of medical practice.

JURISDICTION AND VENUE

3. This court has subject-matter jurisdiction over the action pursuant to 21 U.S.C. § 843(f)(2) and 882(a). For purposes of this Order, Dr. Ponce consents to this court’s subject matter and personal jurisdiction.

¹ ECF No. 2.

4. Venue is proper in the District of Utah under 21 U.S.C. § 843(f)(2) and 28 U.S.C. §§ 1391(b) and 1395(a). For purposes of this Order, Dr. Ponce consents to venue in this judicial district.

5. In order to avoid the delay, uncertainty, inconvenience, and expense of protracted litigation, Dr. Ponce consents to the entry of this Order without admission or finding of fact, law, liability, or wrongdoing.

6. The United States has conducted an analysis of Dr. Ponce's financial condition based on Dr. Ponce's sworn financial disclosures to the United States and determined that the potential amount recoverable by the United States for the conduct alleged in the Complaint substantially exceeds Dr. Ponce's ability to pay. The Parties agree that the Civil Penalty Amount referenced in Paragraph 9 reflects an analysis of Dr. Ponce's financial condition and his ability to pay.

7. The Parties have reached a settlement of this matter as reflected by the terms set forth below. The Parties recognize, and by entry of this Order the court finds, that this Order is fair, reasonable, and in the public interest.

8. Dr. Ponce further acknowledges that he has read the provisions of the Order, has had sufficient time to consider its ramifications, understands the Order, and is prepared to and will abide by all provisions of this Order.

ORDER

In view of the foregoing, and based on the Parties' consent, it is ORDERED:

9. Judgment is entered in favor of the United States and against Dr. Ponce in the amount of sixty-five thousand dollars (\$65,000.00) (the "Civil Penalty Amount"), payable within

90 days of entry of this Order pursuant to written instructions provided by the United States. The following shall apply to the Civil Penalty Amount:

- a. None of the Civil Penalty Amount is restitution;
- b. The Civil Penalty Amount is a debt to the United States as defined in the Federal Debt Collection Procedures Act, of 1990, 28 U.S.C. §§ 3001–08, and nothing in this Order precludes the United States from taking action to collect the debt as authorized by law; and
- c. Dr. Ponce will not pay any prejudgment interest on the Civil Penalty Amount.

10. Dr. Ponce is permanently restrained and enjoined under 21 U.S.C. §§ 843(f) and 882(a) from, directly or indirectly,

- a. administering, dispensing, distributing, or possessing with the intent to distribute, any controlled substance;
- b. acting as a supervisor or manager of any other individual who administers, dispenses, or distributes any controlled substances; and
- c. serving as a consultant, manager, owner, operator, or supervisor of any entity, that administers, dispenses, or distributes any controlled substances.

For purposes of this Order, the terms “administer,” “controlled substance,” “dispense,” and “distribute” are defined in 21 U.S.C. § 802.

11. Dr. Ponce shall, within fifteen (15) calendar days from the entry of this Order, surrender his DEA Certificate of Registration No. BP7540455 by executing Form DEA-104. Dr. Ponce shall never apply for or seek renewal of a controlled-substances registration from DEA, whether on his own behalf or on behalf of any other corporate entity.

12. This Order resolves only the United States' civil claims against Dr. Ponce under the Controlled Substances Act, 21 U.S.C. §§ 801–971, as alleged in the Complaint. This Order does not affect any other civil, criminal, or administrative claims that the United States may have or bring against Dr. Ponce.

13. The injunctive provisions of this Order supplement, and do not supersede, due diligence and other legal requirements imposed by state and federal law.

14. The Parties waive all rights to appeal or otherwise challenge or contest the validity of this Order.

15. Dr. Ponce understands and acknowledges that he may be subject to civil and/or criminal liability (including for contempt) upon a finding by a court that he has violated this Order.

16. Each party will bear its own legal and other costs incurred in connection with this matter.

17. Should the United States bring and prevail in a contempt action to enforce the terms of this Order, Dr. Ponce shall, in addition to other remedies, reimburse the United States for its attorney's fees (including overhead), expert witness fees, travel expenses incurred by attorneys and witnesses, investigational and analytical expenses, administrative and court costs, and any other costs or fees relating to such contempt proceedings.

18. The United States District Court for the District of Utah retains exclusive jurisdiction to enforce or modify this Order, and for the purpose of granting such additional relief as may be necessary or appropriate.

19. The Order shall not be modified except in writing by Parties and subject to approval by the court.

20. This Order may be signed by the Parties in counterparts, each of which constitutes an original and all of which constitute one of the same Order. Signatures delivered by facsimile transmission, or as *.pdf* attachments to emails, shall constitute acceptable, binding signatures for purposes of this Order.

21. This Order shall constitute a final judgment and order in this action.

Signed October 27, 2022.

BY THE COURT



David Barlow
United States District Judge