ONRR-designated areas	May 2013	Jun 2013	Jul 2013	Aug 2013
Turtle Mountain Reservation	5.05	4.97	4.24	4.14

ONRR-designated areas	Sep 2013	Oct 2013	Nov 2013	Dec 2013
Blackfeet Reservation	3.13	2.81	2.99	2.34
Fort Belknap	4.77	4.75	4.89	5.10
Fort Berthold	4.24	4.09	4.37	4.83
Fort Peck Reservation	4.70	4.31	3.52	3.10
Navajo Allotted Leases in the Navajo Reservation	4.14	3.96	3.80	4.24
Turtle Mountain Reservation	4.49	4.06	4.00	3.63

For information on how to report additional royalties due to major portion prices, please refer to our Dear Payor letter dated December 1, 1999, on the ONRR Web site at *http://www.onrr.gov/ReportPay/PDFDocs/991201.pdf.*

Dated: April 6, 2016.

Gregory J. Gould,

Director, Office of Natural Resources Revenue.

[FR Doc. 2016–09905 Filed 4–27–16; 8:45 am]

BILLING CODE 4335–30–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2016–0001; DS63610000 DR2000000.CH7000 167D0102R2]

Temporary Physical Address Change for General Ledger Team

AGENCY: Office of Natural Resources Revenue, Interior.

ACTION: Notice.

SUMMARY: ONRR is temporarily changing its physical address for courier services and personal deliveries.

DATES: Effective April 13, 2016.

FOR FURTHER INFORMATION CONTACT: Darrel Redford, Supervisory Accountant, at (303) 231–3085, or email at *Darrel.Redford@onrr.gov*

SUPPLEMENTARY INFORMATION: Effective April 13, 2016, all courier services and personal deliveries should be made to ONRR at the Denver Federal Center, Building 53, entrance E–20. Visitor parking is available near entrance E–20, with a phone to request entry. Call Armando Salazar at (303) 231–3585 or Janet Giron at (303) 231–3088 to gain entrance.

Dated: April 12, 2016.

Gregory J. Gould,

Director, Office of Natural Resources Revenue.

[FR Doc. 2016–09906 Filed 4–27–16; 8:45 am]

BILLING CODE 4335–30–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Leucadia National Corporation; 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 Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *Leucadia National Corporation,* Civil Action No. 1:15–cv–01547–RDM. On September 22, 2015, the United States filed a Complaint alleging that Leucadia National Corporation (''Leucadia'') violated the premerger notification and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. 18a, with respect to its acquisition of voting securities of KCG Holdings, Inc. The proposed Final Judgment, filed at the same time as the Complaint, requires Leucadia to pay a civil penalty of $240,000.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's Web site at *http://www.justice.gov/atr* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's Web site, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be directed to Daniel P. Ducore, Special Attorney, c/o Federal Trade Commission, 600 Pennsylvania Avenue NW., CC–8416, Washington, DC 20580 (telephone: 202–326–2526; email: *dducore@ftc.gov*).

Patricia A. Brink,

Director of Civil Enforcement.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, c/o Department of Justice, Washington, DC 20530, Plaintiff, v. *LEUCADIA NATIONAL CORPORATION, 520 Madison Avenue, New York, NY 10022,* Defendant.

CASE NO.: 1:15–cv–01547 JUDGE: Randolph D. Moss FILED: 09/22/2015

COMPLAINT FOR CIVIL PENALTIES FOR FAILURE TO COMPLY WITH THE PREMERGER REPORTING AND WAITING REQUIREMENTS OF THE HART-SCOTT RODINO ACT

The United States of America, Plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States and at the request of the Federal Trade Commission, brings this civil antitrust action to obtain monetary relief in the form of civil penalties against Defendant Leucadia National Corporation (''Leucadia''). Plaintiff alleges as follows:

NATURE OF THE ACTION

1. Leucadia violated the notice and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. 18a (''HSR Act'' or ''Act''), with respect to the acquisition of voting securities of KCG Holdings, Inc. (''KCG'') in July 2013.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to Section 7A(g) of the Clayton Act, 15 U.S.C. 18a(g), and pursuant to 28 U.S.C. 1331, 1337(a), 1345, and 1355 and over the Defendant by virtue of Defendant's consent, in the Stipulation relating hereto, to the maintenance of this action

and entry of the Final Judgment in this District.

3. Venue is properly based in this District by virtue of Defendant's consent, in the Stipulation relating hereto, to the maintenance of this action and entry of the Final Judgment in this District.

THE DEFENDANT

4. Defendant Leucadia is a corporation organized under the laws of Delaware with its principal office and place of business at 520 Madison Avenue, New York, NY 10022. Leucadia is engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. 12, and Section 7A(a)(1) of the Clayton Act, 15 U.S.C. 18a(a)(1). At all times relevant to this complaint, Leucadia had sales or assets in excess of $141.8 million. Leucadia is the ultimate parent entity of Jeffries, LLC (''Jeffries'').

OTHER ENTITIES

5. KCG is a corporation organized under the laws of Delaware with its principal place of business at 545 Washington Boulevard, Jersey City, NJ 07310. KCG is engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. 12, and Section 7A(a)(1) of the Clayton Act, 15 U.S.C. 18a(a)(1). At all times relevant to this complaint, KCG had sale or assets in excess of $14.2 million.

6. Goober Drilling LLC (''Goober'') is a limited liability company organized under the laws of Oklahoma with its principal place of business at 4905 S. Perkins Road, Stillwater, OK 74074. Goober is engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. 12, and Section 7A(a)(1) of the Clayton Act, 15 U.S.C. 18a(a)(1). At all times relevant to this complaint, Goober had sales or assets in excess of $12 million.

THE HART-SCOTT-RODINO ACT AND RULES

7. The HSR Act requires certain acquiring persons and certain persons whose voting securities or assets are acquired to file notifications with the federal antitrust agencies and to observe a waiting period before consummating certain acquisitions of voting securities or assets. 15 U.S.C. 18a(a) and (b). These notification and waiting period requirements apply to acquisitions that meet the HSR Act's thresholds, which are adjusted annually. During most of 2013, the HSR Act's reporting and waiting period requirements applied to most transactions that would result in the acquiring person holding more than $70.9 million, and all transactions (regardless of the size of the acquiring or acquired persons) where the acquiring person would hold more than $283.6 million of the acquired person's voting securities and/or assets, except for certain exempted transactions.

8. The HSR Act's notification and waiting period are intended to give the federal antitrust agencies prior notice of, and information about, proposed transactions. The waiting period is also intended to provide the federal antitrust agencies with an opportunity to investigate a proposed transaction and to determine whether to seek an injunction to prevent the consummation of a transaction that may violate the antitrust laws.

9. Pursuant to Section (d)(2) of the HSR Act, 15 U.S.C. 18a(d)(2), rules were promulgated to carry out the purposes of the HSR Act. 16 CFR 801–803 (''HSR Rules'').

The HSR Rules, among other things, define terms contained in the HSR Act.

10. Pursuant to section 801.13(a)(1) of the HSR Rules, 16 CFR 801.13(a)(1), ''all voting securities of [an] issuer which will be held by the acquiring person after the consummation of an acquisition''—including any held before the acquisition—are deemed held ''as a result of'' the acquisition at issue.

11. Pursuant to sections 801.13(a)(2) and 801.10(c)(1) of the HSR Rules, 16 CFR 801.13(a)(2) and. § 801.10(c)(1), the value of publicly traded voting securities already held is the market price, defined to be the lowest closing price within 45 days prior to the subsequent acquisition.

12. Section 802.9 of the HSR Rules, 16 CFR 802.9, provides that acquisitions solely for the purpose of investment are exempt from the notification and waiting period requirement if the acquirer will hold ten percent or less of the issuer's voting securities.

13. Section 802.64 of the HSR Rules, 16 CFR 802.64, provides generally that certain defined institutional investors, including broker-dealers, may acquire up to 15% of the voting securities of an issuer without filing under the HSR Act and observing the waiting period, if the voting securities are acquired solely for the purpose of investment. Section (c)(1) of Rule 802.64 provides, however, that ''no acquisition of voting securities of an institutional investor of the same type as any entity included within the acquiring person shall be exempt under this section.''

14. Section 7A(g)(1) of the Clayton Act, 15 U.S.C. 18a(g)(1), provides that any person, or any officer, director, or partner thereof, who fails to comply with any provision of the HSR Act is liable to the United States for a civil penalty for each day during which such person is in violation. For violations occurring on or after February 10, 2009, the maximum amount of civil penalty is $16,000 per day, pursuant to the Debt Collection Improvement Act of 1996, Pub. L. 104–134, § 31001(s) (amending the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note), and Federal Trade Commission Rule 1.98, 16 CFR 1.98, 74 FR 857 (Jan. 9, 2009).

DEFENDANT'S PRIOR VIOLATION OF THE HSR ACT

15. On August 15, 2007, Leucadia acquired 8% of the non-corporate interests in Goober. At the time of the acquisition, Leucadia already held 42% of the non-corporate interests of Goober. As a result of the August 15 transaction, Leucadia acquired control of Goober as defined in the HSR Rules. The value of the membership interests held by Leucadia after the acquisition was approximately $125 million.

16. Although it was required to do so, Leucadia did not file under the HSR Act prior to acquiring Goober membership interests on August 15, 2007.

17. On October 24, 2008, Leucadia made a corrective filing under the HSR Act for the August 15, 2007, acquisition of Goober non-corporate interests. In a letter accompanying the corrective filing, Leucadia acknowledged that the transaction was reportable under the HSR Act, but asserted that the failure to file and observe the waiting period was inadvertent.

18. On January 7, 2009, the Premerger Notification Office of the Federal Trade Commission sent a letter to Leucadia indicating that it would not recommend a civil penalty action regarding the August 15, 2007 Goober acquisition, but stating that Leucadia ''still must bear responsibility for compliance with the Act. In addition, it is accountable for instituting an effective program to ensure full compliance with the Act's requirements.''

VIOLATION

19. On July 1, 2013, Leucadia, through Jeffries, acquired 16,467,774 shares of KCG voting securities. The KCG voting securities held as a result of the acquisition by Leucadia represented approximately 13.5% of KCG's outstanding voting securities and were valued at approximately $173 million.

20. Prior to acquiring the KCG voting securities, Leucadia sought advice from experienced HSR counsel as to whether the transaction was subject to the HSR reporting requirements. Counsel

concluded that the transaction was exempt under Section 802.64 of the HSR Rules because Jeffries was a broker-dealer within the meaning of the HSR Rules, Jeffries was acquiring the voting securities solely for the purpose of investment, and KCG was not a broker-dealer within the meaning of the HSR Rules.

21. KCG was a broker-dealer within the meaning of the HSR Rules and the exemption under Section 802.64 therefore did not apply. Leucadia was required to observe the notification and waiting period requirements of HSR prior to Jeffries acquiring the KCG voting securities.

24. On September 19, 2014, Leucadia made a corrective filing under the HSR Act for the KCG voting securities it had acquired on July 1, 2013. In a letter accompanying the corrective filing, Leucadia acknowledged that the acquisition was reportable under the HSR Act. The HSR waiting period expired on October 20, 2014.

25. Leucadia was in continuous violation of the HSR Act from July 1, 2013, when it acquired the KCG voting securities that resulted in it holding more than ten percent of the outstanding KCG voting securities valued in excess of the HSR Act's $70.9 million size-of-transaction threshold, through October 20, 2014, when the waiting period expired.

REQUESTED RELIEF

WHEREFORE, Plaintiff requests:

1. That the Court adjudge and decree that Defendant Leucadia's acquisition of KCG voting securities on July 1, 2013, was a violation of the HSR Act, 15 U.S.C. 18a; and that Defendant Leucadia was in violation of the HSR Act each day from July 1, 2013, through October 20, 2014.

2. That the Court order Defendant Leucadia to pay to the United States an appropriate civil penalty as provided by the HSR Act. 15 U.S.C. 18a(g)(1), the Debt Collection Improvement Act of 1996, Pub. L. 104–134, § 31001(s) (amending the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note), and Federal Trade Commission Rule 1.98, 16 CFR 1.98, 74 FR 857 (Jan. 9, 2009).

3. That the Court order such other and further relief as the Court may deem just and proper.

4. That the Court award the Plaintiff its costs of this suit.

Dated: September 22, 2015

FOR THE PLAINTIFF UNITED STATES OF AMERICA:

/s/
William J. Baer
DC Bar No. 324723
Assistant Attorney General
Department of Justice
Antitrust Division
Washington, DC 20530

/s/
Daniel P. Ducore
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Special Attorney

/s/
Roberta S. Baruch
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/s/
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Special Attorney

/s/
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Special Attorney

Federal Trade Commission
Washington, DC 20580
(202) 326–2694

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff, v. *LEUCADIA NATIONAL CORPORATION,* Defendant.

CASE NO.: 1:15–cv–01547 JUDGE: Randolph D. Moss

FILED: 04/20/2016

COMPETITIVE IMPACT STATEMENT

The United States, pursuant to the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement to set forth the information necessary to enable the Court and the public to evaluate the proposed Final Judgment that would terminate this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THIS PROCEEDING

On September 22, 2015, the United States filed a Complaint against Defendant Leucadia National Corporation (''Leucadia''), related to Leucadia's acquisition of voting securities of KCG Holdings, Inc. (''KCG'') in 2013. The Complaint alleges that Leucadia violated Section 7A of the Clayton Act, 15 U.S.C. 18a, commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the ''HSR Act''). The HSR Act states that ''no person shall acquire, directly or indirectly, any voting securities of any person'' exceeding certain thresholds until that person has filed pre-acquisition notification and report forms with the Department of Justice and the Federal Trade Commission (collectively, the ''federal antitrust agencies'' or ''agencies'') and the post-filing waiting period has expired.[1] The purpose of the notification and waiting period is to allow the agencies an opportunity to conduct an antitrust review of proposed transactions before they are consummated.

The Complaint alleges that Leucadia, via an entity it controls, acquired voting securities of KCG in excess of the statutory threshold ($70.9 million at the time of acquisition) without making the required pre-acquisition filings with the agencies and without observing the waiting period, and that Leucadia and KCG each met the statutory size of person threshold at the time of the acquisition (Leucadaia and KCG had sales or assets in excess of $141.8 million and $14.2 million, respectively).

The Complaint further alleges that Leucadia previously violated the HSR Act's notification requirements when it acquired shares in Goober Drilling LLC (''Goober'') in 2007. On August 15, 2007, Leucadia acquired 8% of the non-corporate interests in Goober which, when combined with its then existing interest in Goober, gave Leucadia control of Goober as defined in the HSR Rules. Although it was required to do so, Leucadia did not file under the HSR Act prior to acquiring Goober membership interests on August 15th. On October 24, 2008, Leucadia made a corrective filing under the HSR Act for the August 15, 2007, acquisition of Goober non-corporate interests. In a letter accompanying the corrective filing, Leucadia acknowledged that the transaction was reportable under the HSR Act, but asserted that the failure to file and observe the waiting period was inadvertent. On January 7, 2009, the Premerger Notification Office of the Federal Trade Commission sent a letter to Leucadia indicating that it would not recommend a civil penalty action regarding the 2007 Goober acquisition, but stated that Leucadia would be ''accountable for instituting an effective program to ensure full compliance with the [HSR] Act's requirements.''[2]

At the same time the Complaint was filed, the United States also filed a Stipulation and proposed Final Judgment that eliminates the need for a trial in this case. The proposed Final Judgment is designed to deter Leucadia's HSR Act violations. Under the proposed Final Judgment, Leucadia must pay a civil penalty in the amount of $240,000.

The United States and the Defendant have stipulated that the proposed Final Judgment may be entered after compliance with the APPA, unless the

[1] 15 U.S.C. 18a(a).

[2] Complaint, ¶ 18.

United States first withdraws its consent. Entry of the proposed Final Judgment would terminate this case, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and punish violations thereof. Entry of this judgment would not constitute evidence against, or an admission by, any party with respect to any issue of fact or law involved in the case and is conditioned upon the Court's finding that entry is in the public interest.

II. DESCRIPTION OF THE EVENTS GIVING RISE TO THE ALLEGED VIOLATIONS OF THE ANTITRUST LAWS

A. Leucadia and the Acquisitions of KCG Voting Securities

Leucadia is a holding company with a market capitalization of approximately $8 billion. Through its subsidiaries, it engages in mining and drilling services, telecommunications, healthcare services, manufacturing, banking and lending, real estate, and winery businesses. Currently, Leucadia's largest holding is Jeffries Group, a global investment bank that provides clients with capital markets and financial advisory services, including institutional brokerage.

KCG is a global financial services firm engaging in market making, high-frequency trading, electronic execution, and institutional sales and trade.

On July 1, 2013, Leucadia, through Jeffries, acquired 16,467,774 shares of KCG voting securities. Leucadia's voting securities represented approximately 13.5% of KCG's outstanding voting securities and were valued at approximately $173 million. This exceeded the HSR Act's $70.9 million size-of-transaction threshold then in effect.

Prior to acquiring the Leucadia voting securities, Leucadia sought advice from experienced HSR counsel as to whether the transaction was subject to the HSR reporting requirements. Counsel concluded that the transaction was exempt under Section 802.64 of the HSR Rules because Jeffries was a broker-dealer within the meaning of the HSR Rules, Jeffries was acquiring the voting securities solely for the purpose of investment, and KCG was not a broker-dealer within the meaning of the HSR Rules. KCG was, however, a broker-dealer within the meaning of the HSR Rules and the exemption under Section 802.64 therefore did not apply. Leucadia was required to observe the notification and waiting period requirements of HSR prior to Jeffries acquiring the KCG voting securities. After discovering the missed filing, Leucadia promptly made a corrective filing on September 19, 2014. The waiting period expired on October 20, 2014.

B. Leucadia's Violation of HSR

As alleged in the Complaint, Leucadia acquired in excess of the $70.9 million in voting securities of KCG without complying with the pre-acquisition notification and waiting period requirements of the HSR Act. Leucadia's failure to comply undermined the statutory scheme and the purpose of the HSR Act. Leucadia's September 19, 2014, corrective filing included a letter acknowledging that the acquisitions were reportable under the HSR Act.

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The proposed Final Judgment imposes a $240,000 civil penalty designed to deter this Defendant and others from violating the HSR Act. The United States adjusted the penalty downward from the maximum because the violation was unintentional, the Defendant promptly self-reported the violation after discovery, and the Defendant is willing to resolve the matter by consent decree and avoid prolonged investigation and litigation. The penalty also reflects Defendant's previous violation of the HSR Act, as well as Defendant's good faith efforts to comply with HSR by seeking advice from counsel prior to the acquisition. The United States expects this penalty to deter Leucadia and others from violating the HSR Act. The relief will have a beneficial effect on competition because the agencies will be properly notified of acquisitions, in accordance with the law. At the same time, the penalty will not have any adverse effect on competition.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

There is no private antitrust action for HSR Act violations; therefore, entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust action.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The United States and Defendant have stipulated that the proposed Final Judgment may be entered by this Court after compliance with the provision of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry of the decree upon this Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet Web site and, under certain circumstances, published in the **Federal Register**. Written comments should be submitted to: Daniel P. Ducore, Special Attorney, United States, c/o Federal Trade Commission, 600 Pennsylvania Avenue NW., CC–8416, Washington, DC 20580, Email: *dducore@ftc.gov.*

The proposed Final Judgment provides that this Court retains jurisdiction over this action, and the parties may apply to this Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

As an alternative to the proposed Final Judgment, the United States considered pursuing a full trial on the merits against the Defendant. The United States is satisfied, however, that the proposed relief is an appropriate remedy in this matter. Given the facts of this case, including the Defendant's self-reporting of the violation and willingness to settle quickly, the United States is satisfied that the proposed civil penalty is sufficient to address the violation alleged in the Complaint and to deter violations by similarly situated entities in the future, without the time, expense, and uncertainty of a full trial on the merits.

VII. STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT

The APPA requires that remedies contained in proposed consent judgments in antitrust cases brought by the United States be subject to a sixty

(60) day comment period, after which the court shall determine whether entry of the proposed Final Judgment is ''in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to 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)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one, as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States v. Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States v. SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States v, U.S. Airways Group, Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (noting the court has broad discretion of the adequacy of the relief at issue); *United States v. InBev N.V./S.A.,* No. 08–1965 (JR), 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, at *3, (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable.'').[3]

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States v. BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States v. Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States v. Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.''* More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[4] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that a court should not reject the proposed remedies because it believes others are preferable); *Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States v. Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.''' *United States v. Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States v. Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland v. United States,* 460 U.S. 1001 (1983); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (noting that room must be made for the government to grant concessions in the negotiation process for settlements (citing *Microsoft,* 56 F.3d at 1461)); *United States v. Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As this Court recently confirmed in *SBC Communications,* courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to

[3] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. § 16(e) (2004), *with* 15 U.S.C. § 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

[4] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States v. Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest''').

make a mockery of judicial power.'' *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. § 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11.[5] A court can make its public interest determination based on the competitive impact statement and response to public comments alone. *U.S. Airways,* 38 F. Supp. 3d at 76.

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Date: April 20, 2016
Respectfully Submitted,

____/s/ Kenneth A. Libby
Kenneth A. Libby
Special Attorney

[5] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States v. Mid-Am. Dairymen, Inc.,* No. 73–CV–681–W–1, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980, *22 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, c/o Department of Justice, Washington, D.C. 20530, Plaintiff, v. *LEUCADIA NATIONAL CORPORATION, 520 Madison Avenue, New York, NY 10022,* Defendant.
CASE NO.: 1:15–cv–01547
JUDGE: Randolph D. Moss
FILED: 09/22/2015

FINAL JUDGMENT

Plaintiff, the United States of America, having commenced this action by filing its Complaint herein for violation of Section 7A of the Clayton Act, 15 U.S.C. 18a, commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976, and Plaintiff and Defendant Leucadia National Corporation, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by the Defendant with respect to any such issue:

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby Ordered, Adjudged, and Decreed as follows:

I.

The Court has jurisdiction of the subject matter of this action and of the Plaintiff and the Defendant. The Complaint states a claim upon which relief can be granted against the Defendant under Section 7A of the Clayton Act, 15 U.S.C. 18a.

II.

Judgment is hereby entered in this matter in favor of Plaintiff United States of America and against Defendant, and, pursuant to Section 7A(g)(1) of the Clayton Act, 15 U.S.C. 18a(g)(1), the Debt Collection Improvement Act of 1996, Pub. L. 104–134 31001(s) (amending the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461), and Federal Trade Commission Rule 1.98, 16 CFR 1.98, 61 FR 54549 (Oct. 21, 1996), and 74 FR 857 (Jan. 9, 2009), Defendant Leucadia National Corporation is hereby ordered to pay a civil penalty in the amount of two hundred forty thousand dollars ($240,000). Payment of the civil penalty ordered hereby shall be made by wire transfer of funds or cashier's check. If the payment is made by wire transfer, Defendant shall contact Janie Ingalls of the Antitrust Division's Antitrust Documents Group at (202) 514–2481 for instructions before making the transfer. If the payment is made by cashier's check, the check shall be made payable to the United States Department of Justice and delivered to: Janie Ingalls, United States Department of Justice, Antitrust Division, Antitrust Documents Group, 450 5th Street NW., Suite 1024, Washington, DC 20530.

Defendant shall pay the full amount of the civil penalty within thirty (30) days of entry of this Final Judgment. In the event of a default or delay in payment, interest at the rate of eighteen (18) percent per annum shall accrue thereon from the date of the default or delay to the date of payment.

III.

Each party shall bear its own costs of this action.

IV.

Entry of this Final Judgment is in the public interest.

Dated: __________

United States District Judge

[FR Doc. 2016–09915 Filed 4–27–16; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Abolghasem Rezaei, M.D.; Decision and Order

On November 16, 2015, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Abolghasem Rezaei, M.D. (hereinafter, Registrant) of Lawton, Oklahoma. GX 1. The Show Cause Order proposed the revocation of Registrant's DEA Certificate of Registration, pursuant to which he is authorized to dispense controlled substances in schedules IV and V as a practitioner, on the ground that he does ''not have authority to handle controlled substances in the State of Oklahoma, the State in which [he is] registered with the'' Agency. *Id.* at 1.

More specifically, the Show Cause Order alleged that effective May 28, 2013, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (hereinafter, OBNDD) issued a Stipulation and Agreed Order to Registrant, pursuant to which his authority to dispense controlled substances in schedules II and III was suspended ''for two years''; the Order then alleged that his Oklahoma registration ''expired on October 31, 2014,'' and had not been renewed. *Id.*