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. INPUT/OUTPUT, INC. 11104 West Airport Blvd., Suite 200 Stafford, TX 77477-2416, and THE LAITRAM CORPORATION 220 Laitram Lane Hanahan, LA 70123 Defendants.	Civil Action No. 99 0912

FINAL JUDGMENT

Plaintiff, the United States of America ("United States"), 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 Defendants, The Laitram Corporation and Input/Output, Inc., by their attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, for settlement purposes only, and without this Final Judgment constituting any evidence against or an admission by the Defendants 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 Defendants. The Complaint states a claim upon which relief can be granted against the Defendants 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 Defendants, 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 C.F.R. § 1.98, 61 Fed. Reg. 54549 (Oct. 21, 1996), Defendant The Laitram Corporation is hereby ordered to pay a civil penalty in the amount of $225,000, and Defendant Input/Output, Inc. is hereby ordered to pay a civil penalty in the amount of $225,000. Payment of the civil penalties ordered hereby shall be made by wire transfer of funds to the United States Treasury through the Treasury Financial Communications System or by cashier's check made payable to the Treasurer of the United States and delivered to Chief, FOIA Unit, Antitrust Division, Department of Justice, Liberty Place, 325 7th Street, Suite 200, N.W., Washington, D.C., 20530. Defendants shall pay the full amount of the civil penalties within thirty (30) days of entry of this Final Judgment. In the event of a default in payment, interest at

the rate of eighteen (18) percent per annum shall accrue thereon from the date of default 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: _____, 1999.

_____

United States District Judge

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. INPUT/OUTPUT, INC. 11104 West Airport Blvd., Suite 200 Stafford, TX 77477-2416 and THE LAITRAM CORPORATION 220 Laitram Lane Harahan, LA 70123, Defendants.	CASE NUMBER 1:99CV00912 JUDGE: Thomas Penfield Jackson DECK TYPE: Antitrust DATE STAMP: 04/12/99

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 Input/Output, Inc. ("Input/Output") and Defendant The Laitram Corporation ("Laitram") (collectively, "the Defendants"). By agreement of the parties, the Final Judgment against the Defendants provides for the payment of a civil penalty totaling $225,000 by Defendant Input/Output and a civil penalty totaling $225,000 by Defendant Laitram pursuant to Section 7A(g)(1) of the Clayton Act, 15 U.S.C. § 18a(g)(1).

STATEMENT OF POINTS AND AUTHORITIES

The Complaint in this action alleges that Defendants violated Section (a) of Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("Hart-Scott-Rodino Act" or "Act"), Section 7A of the Clayton Act, 15 U.S.C. § 18a, which requires certain acquiring persons and certain persons whose 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 the Defendants were in continuous violation of the HSR Act each day at least for the period beginning on or about October 10, 1998, and ending on November 3, 1998. Section (g)(1) of the Hart-Scott-Rodino Act, Section 7A(g)(1) of the Clayton Act, 15 U.S.C. § 18a(g)(1), 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 in violation of the Act.[1] Accordingly, the Complaint seeks "an appropriate civil penalty." As the Stipulation and proposed Final Judgment indicate, within 30 days of entry of the Final Judgment, Defendant Input/Output has agreed to pay civil penalties totaling $225,000 and Defendant Laitram has agreed to pay civil penalties totaling $225,000.

The United States does not believe that the procedures of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. § 16 (b)-(h), are required in this action. The APPA requires that any proposal for a "consent judgment" submitted by the United States in a civil case filed "under the

---

[1] This amount was increased to a maximum civil penalty of $11,000 per day for violations occurring on or after November 20, 1996, pursuant to the Debt Collection Act of 1996, Pub. L. 104-134 § 31001(s) and FTC Rule 1.98, 16 C.F.R. § 1.98, 61 Fed. Reg. 54548 (Oct. 21, 1996).

antitrust laws" be filed with the court at least 60 days in advance of its effective date, published in the Federal Register and a newspaper for public comment, and reviewed by the court for the purpose of determining whether it is in the public interest. Key features of the APPA are preparation by the United States of a "competitive impact statement" explaining the proceeding and the proposed judgment, and the consideration by the court of the proposed judgment's competitive impact and its impact on the public generally as well as individuals alleging specific injury from the violation set forth in the Complaint.

The procedures of the APPA are not required in this action because the Complaint 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 when it passed the APPA. Civil penalties are intended 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 APPA. 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.[2] Previously, in *United States v. ARA Services, Inc.*, 1979-2 CCH Trade Cases ¶ 62,861 (E.D. Mo.), a consent judgment calling for both equitable relief and civil penalties was approved by the court on August 14, 1979, after the United States had taken the position in APPA proceedings that the civil penalties component of that judgment was not open to public objection. *See* 44 Fed. Reg. 41583 (July 17, 1979).[3] There are no circumstances favoring the use of APPA procedures in this case.

---

[2] *See, e.g., United States v. The Loewen Group Inc.*, 1998-1 Trade Cas. (CCH) ¶ 72,151 (D.D.C.).; *United States v. Mahle GMBH et al.*, 1997-2 Trade Cas. (CCH) ¶ 71,868 (D.D.C.); *United States v. Figgie Int'l, Inc.*, 1997-1 Trade Cas. (CCH) ¶ 71,766 (D.D.C.); *United States v. Foodmaker, Inc.*, 1996-2 Trade Cas. (CCH) ¶ 71,555 (D.D.C.); *United States v. Titan Wheel International, Inc.*, 1996-1 Trade Cas. (CCH) ¶ 71,406 (D.D.C.); *United States v. Automatic Data Processing, Inc.*, 1996-1 Trade Cas. (CCH) ¶ 71,361 (D.D.C.); *United States v. Trump*, 1988-1 Trade Cas. (CCH) ¶ 67,968 (D.D.C.); *United States v. First City Financial Corp., Ltd.*, 1988-1 Trade Cas. (CCH) ¶ 67,967 (D.D.C.); *United States v. Wickes Companies, Inc.*, 1988-1 Trade Cas. (CCH) ¶ 67,966 (D.D.C.). In each case, the United States noted the issue in a motion for entry of judgment, explaining to the court that it believed the APPA inapplicable.

[3] In the first case brought under the Hart-Scott-Rodino Act, *United States v. Coastal Corp.*, 1985-1 Trade Cas. (CCH) ¶ 66,425 (D.D.C.), the United States -- noting its view that the APPA was not applicable -- chose to employ the APPA procedures, believing that those procedures would in that particular case help describe to the public the circumstances and events that gave rise to the complaint and final judgment. 49 Fed. 36455 (Sept. 17, 1984). In one other civil penalties case under the Hart-Scott-Rodino Act, the APPA procedures were followed. In *United States v. Bell Resources Ltd.*, 1986-2 Trade Cas. (CCH) ¶ 67,321 (S.D.N.Y.), the complaint sought injunctive relief in addition to civil penalties.

For the above reasons, the United States asks the Court to enter the Final Judgment in this case.

Dated: 4/12/98

Respectfully submitted,

Daniel Ducore
D.C. Bar No. 933721
Roberta Baruch
D.C. Bar No. 269266
Kenneth M. Davidson
D.C. Bar No. 9700772
Cathy Moscatelli
D.C. Bar No. 418518
Special Attorneys to the Attorney General

Bureau of Competition
Federal Trade Commission
Washington, D.C. 20580