

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

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	Civil Action No. 1:05-cv-02179-CKK-AK
)	
v.)	Judge Collen Kollar-Kotelly
)	
BARR PHARMACEUTICALS, INC.,)	Magistrate Judge Alan Kay
)	
Defendant.)	
)	

FINAL ORDER AND STIPULATED PERMANENT INJUNCTION

WHEREAS Plaintiff, Federal Trade Commission (“Commission”), filed its First Amended Complaint on December 5, 2005, pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), seeking injunctive and other equitable relief for alleged violations of Section 5 of the FTC Act, 15 U.S.C. § 45;

AND WHEREAS, in conjunction with the filing of this Final Order and Stipulated Permanent Injunction (“Final Order”), Plaintiff and Barr Pharmaceuticals, Inc. (“Barr”), by their respective attorneys, have stipulated and agreed to entry by the Court of this Final Order without trial or adjudication of any issue of fact or law;

AND WHEREAS, this Final Order is entered for settlement purposes only and does not constitute any evidence against, or an admission of liability, wrongdoing, or of any issue of fact or law, by Defendant Barr;

AND WHEREAS, the parties agree to be bound by the provisions of this Final Order pending its approval by the Court;

AND WHEREAS, Defendant Barr has launched the generic product at issue in the Complaint and this Final Order, as described herein, requires Defendant Barr to refrain from entering into certain identified types of agreements in the future;

AND WHEREAS, Defendant Barr has represented to the Plaintiff that the relief required below can and will be made and that Defendant Barr will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the terms of the relief contained below;

AND WHEREAS, Barr retains the right to seek to modify this Final Order, either unilaterally or jointly with the Commission (at the Commission's discretion), pursuant to Fed. R. Civ. P. 60(b)(6).

AND WHEREAS, Defendant Barr, without admitting that it has violated Section 5 of the FTC Act, 15 U.S.C. § 45, agrees to the entry of this Final Order under Section 13(b) of the FTC Act;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is

ORDERED, ADJUDGED AND DECREED THAT:

I. Jurisdiction and Venue

- A. Solely for purposes of entry of this Final Order and enforcement thereof, this Court has jurisdiction over the parties and the subject matter of this action.
- B. Solely for purposes of entry of this Final Order and enforcement thereof, venue is proper in this Court under Sections 5 and 13(b) of the FTC Act, 15 U.S.C. §§ 45, 53(b).
- C. The parties waive all rights to appeal or otherwise challenge or contest the validity of this Final Order, including but not limited to any claim under the Equal Access to Justice Act, 28 U.S.C. § 2412.

- D. Entry of this order is in the public interest.

II. Definitions

As used in this Final Order:

- A. “Agreement” means anything that would constitute a contract, combination, or conspiracy within the meaning of Section 1 of the Sherman Act, 15 U.S.C. § 1, regardless of whether such contract, combination, or conspiracy is in restraint of trade.
- B. “ANDA” means an abbreviated new drug application filed under Section 505(j) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 355(j).
- C. “ANDA Filer” means the party to a Branded/Generic Supply Agreement or a Branded/Generic Agreement who controls an ANDA for the Subject Drug Product or has the exclusive right to distribute the Generic Product.
- D. “Barr” means Barr Pharmaceuticals, Inc., and its officers, directors, employees, agents and representatives, successors, and assigns; United States subsidiaries, divisions, groups, and affiliates controlled by Barr; and the officers, directors, employees, agents and representatives, successors, and assigns of each.
- E. “Branded/Generic Agreement” means any Agreement in or affecting Commerce in the United States in which a party is the NDA Holder and another party is the ANDA Filer for the same Subject Drug Product.
- F. “Branded/Generic Supply Agreement” means any supply agreement in or affecting Commerce in the United States in which a party is the NDA Holder and another party is the ANDA Filer for the same Subject Drug Product, and the ANDA Filer agrees to supply Generic Product to the NDA Holder.
- G. “Commerce” has the same definition as it has in 15 U.S.C. § 44.
- H. “Commission” means the Federal Trade Commission.

