

*RAKOFF J*

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U. S. DISTRICT COURT  
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S. D. OF N. Y.

ATTORNEYS FOR PLAINTIFF

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**FEDERAL TRADE COMMISSION,**

Plaintiff,

v.

**DIET COFFEE, INC.**, a corporation;  
**DAVID STOCKNOFF**, individually and as  
President, Chief Financial Officer, and a  
Director of Diet Coffee, Inc.; and **DAVID  
ATTARIAN**, individually and as Secretary  
and a Director of Diet Coffee, Inc.,

Defendants.

JUDGE RAKOFF

08 CV 00094

CASE NO.

**STIPULATED FINAL JUDGMENT AND ORDER FOR PERMANENT  
INJUNCTION AND OTHER EQUITABLE RELIEF  
AS TO DEFENDANT DAVID STOCKNOFF**

Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), filed a Complaint for Permanent Injunction and Other Equitable Relief against defendants Diet Coffee, Inc. (“DCI”), a corporation; David Stocknoff (“Stocknoff”), individually and as President, Chief Financial Officer, and a Director of DCI; and David Attarian, individually and as a Secretary and

a Director of DCI (“defendants”) pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), alleging deceptive acts or practices and false advertisements in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

The Commission and defendant Stocknoff stipulate to the entry of this Order in settlement of the Commission’s allegations against defendant Stocknoff. The Court, being advised in the premises, finds:

### **FINDINGS**

1. This Court has jurisdiction over the subject matter of this case and jurisdiction over all parties pursuant to 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355.

2. Venue in the Southern District of New York is proper under 28 U.S.C. §§ 1391(b)-(d) and 15 U.S.C. § 53(b).

3. The Complaint states a claim upon which relief can be granted, and the Commission has the authority to seek the relief it has requested.

4. The activities of defendant Stocknoff are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

5. Defendant Stocknoff, without admitting the allegations of the Commission’s Complaint, stipulates and agrees to entry of this Order under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b).

6. The Commission and defendant Stocknoff agree that the entry of this Order resolves all matters of dispute between them arising from the Complaint in this matter, up to the date of entry of this Order.

7. Defendant Stocknoff waives all rights to seek judicial review or otherwise challenge or contest the validity of this Order. Defendant Stocknoff also waives any claim that

he may have held under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date of this Order.

8. This action and the relief awarded herein are in addition to, and not in lieu of, other remedies as may be provided by law.

9. Pursuant to Federal Rule of Civil Procedure 65(d), the provisions of this Order are binding upon defendant Stocknoff, and his officers, agents, servants, representatives, employees, and all other persons or entities in active concert or participation with him, who receive actual notice of this Order by personal service or otherwise.

10. This Order reflects the negotiated agreement of the parties.

11. The paragraphs of this Order shall be read as the necessary requirements of compliance and not as alternatives for compliance and no paragraph serves to modify another paragraph unless expressly so stated.

12. Each party shall bear its own costs and attorneys' fees.

13. Entry of this Order is in the public interest.

### **ORDER**

### **DEFINITIONS**

1. Unless otherwise specified, "defendants" shall mean:

- a. Diet Coffee, Inc., a corporation, its divisions and subsidiaries, and its successors and assigns;
- b. David Stocknoff, individually, and in his capacity as President, Chief Financial Officer, and a Director of Diet Coffee, Inc.; and
- c. David Attarian, individually, and in his capacity as Secretary and a Director of Diet Coffee, Inc.

