

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

WELLCO, INC., *et al.*,

Defendants.

Case No. 1:21-cv-02081-MKV

**MOTION FOR ENTRY OF  
PROPOSED STIPULATED ORDER  
FOR PERMANENT INJUNCTION  
AND MONETARY JUDGMENT AND  
FOR THE COURT TO RETAIN  
JURISDICTION TO ENFORCE**

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), respectfully moves the Court for entry of the attached proposed Stipulated Order for Permanent Injunction and Monetary Judgment against Defendants, Wellco, Inc. and George M. Moscone. The FTC and the Defendants have stipulated to the entry of the proposed Stipulated Order for Permanent Injunction and Monetary Judgment, and for the Court to retain jurisdiction to enforce the Stipulated Order.

In support of this motion, the FTC states as follows:

1. On March 10, 2021, the FTC filed its Complaint for a permanent injunction, monetary relief, and other relief pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b). *See* Docket No. 1.

2. The FTC and Defendants Wellco, Inc. and George M. Moscone (“Defendants”), having been represented by counsel and acting by and through such counsel, have consented to the entry of a proposed Stipulated Order for Permanent Injunction and Monetary Judgment, attached as **Attachment 1**.

3. Entry of this Stipulated Order for Permanent Injunction and Monetary Judgment would resolve all matters in dispute in this action, except the Court would retain jurisdiction for the purpose of enforcement of the Stipulated Order. The proposed Stipulated Order is fair and

reasonable and in the public interest, in light of *SEC v. Citigroup Global Markets, Inc.*, 752 F.3d 285 (2d Cir. 2014).

4. The FTC respectfully requests, consistent with Section X of the proposed Stipulated Order, that the Court retain jurisdiction to enforce it. This case is brought by the FTC in the public interest to address consumer injury and is thus unlike cases between private parties that are frequently resolved via confidential settlements, as described in the Court's Rule of Individual Practice 6(c). Whereas cases between private parties typically conclude with a request for dismissal of the case to end the dispute, here the FTC seeks the entry of a Stipulated Order that is public, and which contains injunctive provisions governing conduct, compliance reporting, and monetary payment obligations that require ongoing monitoring. The FTC regularly requests that courts enter permanent injunctions pursuant to the FTC Act, 15 U.S.C. § 53(b)(2). The FTC does so by filing proposed orders, including stipulated orders, in this district and districts nationwide to protect the public, and retention of jurisdiction is a standard term. *See, e.g., FTC v. Outreach Calling, Inc.*, No. 1:20-cv-07505(MKV)(GWG) (S.D.N.Y. Oct. 26, 2020), ECF Nos. 40 (court retains jurisdiction to enforce stipulated order) and 42 (provision XVI, "Retention of Jurisdiction). *See also SEC v. Luckin Coffee, Inc.*, No. 20-cv-10631 (MKV) (S.D.N.Y. Feb. 4, 2021), ECF No. 14 (Court retained jurisdiction to enforce terms of consent judgment enjoining defendant from committing fraud in connection with the offer, purchase and sale of securities).

Moreover, the FTC must sometimes seek contempt against defendants who violate a court's permanent injunction or final order. *See, e.g., FTC v. BlueHippo Funding, LLC*, 762 F.3d 238, 243 (2d Cir. 2014) ("[W]e think it clear that the FTC may pursue recovery for contempt damages based on alleged violations of a Consent Order."). The FTC hopes that it will never be necessary in this case, but if the FTC must move for contempt, expressly retaining jurisdiction

would make clear that the Court would receive the motion.

Respectfully submitted,

JAMES REILLY DOLAN  
Acting General Counsel

Dated: March 12, 2021

/s/ Michael Ostheimer  
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FEDERAL TRADE COMMISSION

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on March 12, 2021, I electronically filed the FTC's Motion For Entry Of Proposed Stipulated Order For Permanent Injunction And Monetary Judgment And For The Court To Retain Jurisdiction To Enforce and attachment with the Clerk of the Court using CM/ECF. I caused a copy of the same to be served by electronic mail to the following counsel for Defendants who has agreed to accept electronic service:

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Dated: March 12, 2021

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