15 U.S.C. 16(e) (emphasis added). As the Court of Appeals for the District of Columbia has held, the APPA permits a court to consider, 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 United States* v. *Microsoft Corp.,* 56 F. 3d 1448. 1458–62 (DC Cir. 1995).

In conducting this inquiry, ''the Court is nowhere compelled to go to trail 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.'' [1] Rather,

> 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.[2]

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engate in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462–63 (9th Cir. 1988), *quoting United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir.), *cert. denied,* 454 U.S. 1083 (1981); *see also Microsoft,* 56 F.3d at 1458. Precedent requires 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.[3]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. 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.'' [4]

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States alleges 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. Since 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 might have but did not pursue.

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.

Dated: August 3, 2001, Washington, DC.

Respectfully submitted,

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[1] 119 Cong. Rec. 24,598 (1973). *See United States* v. *Gillette Co.,* 406 F. Supp. 713, 715 (D. Mass. 1975). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, those procedures are discretionary (15 U.S.C. 16(f)). A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. Rep. No. 93–1463, 93rd Cong. 2d Sess. 8–9 (1974), *reprinted in* 1974 U.S.C.C.A.N. 6535, 6538.

[2] *United States* v. *Mid-American Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977), see also *United States* v. *Loew's Inc.,* 783 F. Supp. 211, 214 (S.D.N.Y. 1992); *United States* v, *Columbia Artists Mgmt., Inc.,* 662 F. Supp. 865, 870 (S.D.N.Y. 1987).

[3] *United States* v. *Bechtel Corp.,* 648 F.2d at 666 (citations omitted) (emphasis added); see *United States* v. *BNS, Inc.,* 858 F. 2d at 463, *United States* v. *National Broadcasting Co.,* 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *United States* v. *Gillette Co.,* 406 F. Supp. at 716. *See also United States* v. *American Cyanamid Co.,* 719 F.2d 558, 565 (2d Cir. 1983), *cert. denied,* 465 U.S. 1101 (1984).

[4] *United States* v. *American Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (*quoting Gillette,* 406 F. Supp. at 716), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983); *United States* v. *Alcan Aluminum, Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985); *United States* v. *Carrols Dev. Corp.,* 454 F. Supp. 1215, 1222 (N.D.N.Y. 1979).

[FR Doc. 01–21645 Filed 8–27–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Test and Diagnostics Consortium, Inc.

Notice is hereby given that, on July 23, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et. seq.* (''the Act''), Test and Diagnostics Consortium, Inc. (''TDC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, AverStar, Inc., Burlington, MA; Boeing, Inc., Seattle, WA; Geotest-Marvin Test Systems, Inc., Santa Ana, CA; Hamilton Software, Inc., Santa Rosa, CA; Honeywell International, Inc., Morristown, NJ; Hughes Space & Communication Company, El Segundo, CA; Instant Knowledge, Inc., Charlottesville, VA; MAC Panel, High Point, NC; Sandia National Laboratories, Albuquerque, NM; Support Systems Associates, Inc., Melbourne, FL; TYX Corporation, Reston, VA; Tern Technology, Inc., Hauppauge, NY; TestMart, Inc., San Bruno, CA; Transportation Technology Center, Inc., Pueblo, CO; and WinSoft, Inc., Santa Ana, CA have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and TDC intends to file additional written notification disclosing all changes in membership.

On November 12, 1999, TDC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 21, 2000 (65 FR 38579).

The last notification was filed with the Department on March 1, 2000. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on March 29, 2001 (66 FR17205).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–21644 Filed 8–27–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 15, 2001, Cedarburg Phamaceuticals, LLC, 870 Badger Circle, Grafton, Wisconsin 53024, made application by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of tetrahydrocannabinols (7370), a basic class of controlled substance listed in Schedule I.

The firm will manufacture tetrahydrocannabinols for another firm.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than October 29, 2001.

Dated: August 20, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of diversion Control, Drug Enforcement Administration.

[FR Doc. 01–21716 Filed 8–27–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Prohibited Transaction Exemption 2001–27; [Exemption Application No. D–10935, et al.]

Grant of Individual Exemptions; The Walston & High, P.A. Profit Sharing Plan (the Plan) et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

The Walston & High, P.A. Profit Sharing Plan (the Plan) Located in Wilson, North Carolina

[Prohibited Transaction Exemption No. 2001–27; Application No. D–10935]

Exemption

The restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the Sale (the Sale) by the Plan to A.J. Walston and Arthur T. High, the trustees of the Plan (the Trustees), of three parcels of improved real property (the Parcels). This exemption is conditioned upon the adherence to the material facts and representations described herein and upon the satisfaction of the following requirements:

(a) The Sale is a one-time transaction for cash;

(b) The Plan does not pay any commissions, costs or other expenses in connection with the Sale; and

(c) The Plan will receive an amount equal to the greater of:

(i) $234,000; or (ii) The current fair market value of the Property, as established by an independent, qualified, appraiser at the time of the Sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice of Proposed Exemption published on June 28, 2001 at 66 FR 34471.

FOR FURTHER INFORMATION CONTACT: Khalif Ford of the Department, telephone (202) 219–8883 (this is not a toll-free number).

Retirement Plan of Dime Bancorp, Inc. (The Dime Plan); Retirement 401(k) Plan of Dime Bancorp, Inc. (the Dime 401(k) Plan); North American Mortgage Company Retirement and 401(k) Savings Plan (the NAMCO Plan); and Lakeview Savings Bank Employee Stock Ownership Plan (the ESOP; together, the Plans), Located in New York, New York

[Prohibited Transaction Exemption 2001–28; Exemption Application Nos. D–10962 through D–10965]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, as of December 29, 2000, to: (1) the receipt by the Plans of certain Litigation Tracking Warrants (the Warrants) pursuant to the distribution of Warrants (the Warrant Distribution) by Dime Bancorp, Inc. (Dime) to all of its common stockholders as of December 22, 2000 (the Record Date);[1] (2) the past

[1] In addition to all of Dime's common stockholders as of December 22, 2000 receiving Warrants pursuant to the Warrant Distribution, any person or entity (including the Plans) who bought the common stock of Dime (the Stock) during the