

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

UNITED STATES OF AMERICA)
)
v.)
)
SMACKOVER PHARMACY, LLC)

No. 1:12-cv-01044-SOH

CONSENT JUDGMENT

WHEREAS:

- A. On May 2, 2012, the United States commenced this action by filing a civil complaint (the "Complaint");
- B. The United States alleges in the Complaint that defendant, Smackover Pharmacy, LLC, committed certain violations of 21 U.S.C. § 842 and the regulations promulgated thereunder;
- C. Smackover Pharmacy, LLC, denies committing any of the violations alleged in the complaint of the United States;
- D. The United States and Smackover Pharmacy, LLC, wish to settle this action without further litigation and without any admission of wrongdoing or liability by Smackover Pharmacy, LLC or any of its members, officers, employees, or agents. To the contrary, the Parties agree that the negotiation, formation, execution, and performance of this Settlement Agreement and Release have been done without the admission or adoption of any liability by Smackover Pharmacy, LLC or any of its members, officers, employees, or agents. Rather, this Settlement Agreement and Release is entered into to avoid the additional costs and expenses associated with further protracted litigation between the Parties and reflects the economic

practicalities pertaining to the cost of litigation and is not, alone, an admission that Smackover Pharmacy, LLC or any of its members, officers, employees, or agents failed to meet the requirements of 21 U.S.C. § 842(a)(1) or any other laws that may be applicable to this case.

THEREFORE, the United States and Smackover Pharmacy, LLC hereby agree as follows pursuant to 21 U.S.C. § 842(c)(1) and 843(f):

1. Smackover Pharmacy, LLC, at all times hereafter shall comply with all provisions of the Controlled Substances Act, 21 U.S.C. § 801 et seq., and the regulations promulgated thereunder.

2. Upon execution by Smackover Pharmacy, LLC of this Consent Judgment, Smackover Pharmacy, LLC shall pay to the United States, Fifty-three Thousand Eight Hundred Dollars (\$53,800.00) due as follows: Twenty-five Thousand Dollars (\$25,000.00) shall be paid within twenty (20) days of entry of judgment. Thereafter, payments of One Thousand Two Hundred Dollars (\$1,200.00) per month beginning on the first day of the month after the initial payment of \$25,000.00, with payments of \$1,200.00 due on the first of each month thereafter for a total of twenty-four months.

3. The payments specified in Paragraph 2 shall be made by certified check or bank check payable to the order of "U.S. Department of Justice" and shall be hand delivered or mailed by first class mail or overnight mail to the United States Attorney's Office, 414 Parker Avenue, Fort Smith, AR 72901, Attn: Linda Miller, Financial Litigation Unit Paralegal.

4. United States law enforcement personnel may, without prior notice or judicial or administrative warrant, enter the pharmacy at 1402 Pershing Ave, Smackover, Arkansas, at any time during regular business hours in order to verify the compliance by Smackover Pharmacy,

LLC with the terms of this Consent Judgment and with the provisions of the Controlled Substances Act, 21 U.S.C. Section 801 et seq. and the regulations promulgated thereunder.

5. The Drug Enforcement Administration (DEA) shall not take any action pursuant to 21 U.S.C. § 824 to revoke or suspend Smackover Pharmacy, LLC 's DEA registration based on the alleged violations of law that are the subject of this lawsuit.

6. Defendant knowingly and voluntarily waived all constitutional, legal and equitable defenses to the obligations imposed upon it pursuant to this Consent Judgment, including without limitation a defense of double jeopardy and excessive fine. Nothing herein shall constitute a finding or admission that defendant has or has not violated any statute or regulation. Nothing herein shall constitute a fine, penalty, punishment or forfeiture.

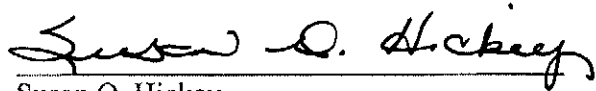
7. The obligations imposed upon defendant pursuant to this Consent Judgment are in addition to, and not in derogation of, all obligations imposed upon them pursuant to all applicable federal, state and local laws, including without limitation the Controlled Substance Act, 21 U.S.C. § 801 et seq., and the regulations promulgated thereunder.

8. Smackover Pharmacy, LLC represents that Jennifer Davis is the managing member and is authorized to enter into this Consent Judgment and all documents necessary to effectuate this Consent Judgment on behalf of Smackover Pharmacy, LLC.

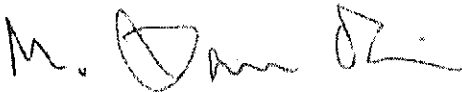
9. This Consent Judgment shall be recorded among the records of the Circuit Court of Union County, Arkansas.

10. The Court shall retain jurisdiction to enforce the provisions of this Consent Judgment.

Dated this 7th day of May, 2012.


Susan O. Hickey
United States District Judge

Approved:




M. Darren O'Quinn
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U.S. DISTRICT COURT
WESTERN DIST ARKANSAS
FILED

MAY 14 2012

CHRIS R. JOHNSON, Clerk
By
Deputy Clerk

CONNER ELDRIDGE
UNITED STATES ATTORNEY

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