

USDC SCAN INDEX SHEET



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3:00-CV-00305 SEC V. NEWMARK

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CONSJGM.

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13 UNITED STATES DISTRICT COURT

14 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

15 SECURITIES AND EXCHANGE
16 COMMISSION,

17 Plaintiff,

18 vs.

19 ANDREW JAY NEWMARK,

20 Defendant.

21 Case No. 00 CV 305 JM

22 FINAL JUDGMENT OF PERMANENT
23 INJUNCTION AND OTHER RELIEF
24 AGAINST DEFENDANT ANDREW JAY
25 NEWMARK

26 Plaintiff Securities and Exchange Commission ("Commission"),
27 having filed and served upon Defendant Andrew Jay Newmark
("Newmark") a Summons and Complaint in this action; Newmark having
admitted service upon him of the Summons and Complaint in this
action and the jurisdiction of this Court over him and over the
subject matter of this action; having been fully advised and
informed of his right to a judicial determination of this matter;
having waived the entry of findings of fact and conclusions of law
as provided by Rule 52 of the Federal Rules of Civil Procedure;
having consented to the entry of this Final Judgment Of Permanent
Injunction And Other Relief Against Defendant Andrew Jay Newmark
("Final Judgment"), without admitting or denying the allegations in

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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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ENTERED ON 2-24-00

1 the Complaint except as specifically set forth in the Consent Of
2 Defendant Andrew Jay Newmark To Entry Of Final Judgment Of Permanent
3 Injunction And Other Relief ("Consent"); no notice of hearing upon
4 the entry of this Final Judgment being necessary; and this Court
5 being fully advised:

6 **I.**

7 **IT IS ORDERED, ADJUDGED AND DECREED** that Andrew Jay Newmark and
8 his agents, servants, employees and attorneys, and all persons in
9 active concert or participation with any of them, who receive actual
10 notice of this Final Judgment by personal service or otherwise, and
11 each of them, are permanently restrained and enjoined from, directly
12 or indirectly, in connection with the purchase or sale of any
13 security, by the use of any means or instrumentality of interstate
14 commerce, or of the mails, or of any facility of any national
15 securities exchange:

16 A. making any untrue statement of a material fact or
17 omitting to state a material fact necessary in order to
18 make the statements made, in the light of the
19 circumstances under which they were made, not misleading;
20 or

21 B. engaging in any fraudulent, deceptive, or manipulative
22 acts or practices in connection with any tender offer or
23 request or invitation for tenders, or any solicitation of
24 security holders in opposition to or in favor of any such
25 offer, request, or invitation;

26 in violation of Section 14(e) of the Securities Exchange Act of 1934
27 [15 U.S.C. § 78n(e)] and Rule 14e-3 [17 C.F.R. § 240.14e-3].

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II.

2 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Newmark pay
3 disgorgement in the amount of \$173,895.38, plus pre-judgment
4 interest calculated pursuant to 28 U.S.C. § 1961 in the amount of
5 \$17,637.77. Newmark shall pay, by cashier's check, certified check
6 or postal money order, the \$191,533.15 in disgorgement and pre-
7 judgment interest within thirty days of entry of this Final
8 Judgment. This disgorgement payment shall be made payable to the
9 United States Securities and Exchange Commission, and shall be
10 transmitted to the Comptroller, Securities and Exchange Commission,
11 Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA
12 22312, under cover of a letter that identifies the defendant, the
13 name and case number of this litigation, and the court. A copy of
14 each such cover letter shall be simultaneously transmitted to
15 counsel for the Commission in this action at its Los Angeles Office.

III.

17 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Newmark is
18 assessed, and shall pay to the Commission for delivery to the United
19 States Treasury, civil penalties in the amount of \$173,895.38 under
20 the Securities Enforcement and Penny Stock Reform Act of 1990
21 pursuant to Section 20(d) of the Securities Act [15 U.S.C. Section
22 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. Section
23 78(d)(3)]. Newmark shall pay the above penalty within 30 days of
24 entry of this Final Judgment. This payment shall be made by
25 cashier's check, certified check or postal money order, payable to
26 the United States Treasury, and shall be transmitted to the
27 Comptroller, Comptroller, Securities and Exchange Commission,
28 Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA

1 22312, under cover of a letter which identifies the defendant, the
2 name and case number of this litigation and the name of the Court.
3 A copy of the cover letter shall be simultaneously transmitted to
4 counsel for the Commission at its Los Angeles office.

5 **IV.**

6 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the provisions
7 of the Consent filed concurrently with this Final Judgment are
8 incorporated by this reference, and that Newmark shall comply with
9 the Consent.

10 **V.**

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court
12 shall retain jurisdiction over this action for all purposes,
13 including to determine the liability of any remaining defendants in
14 this action, to implement and enforce the terms of this Final
15 Judgment and other orders and decrees which may be entered, and to
16 grant such other relief as this Court may deem necessary and just.

17 * * * * *

18 There being no just reason for delay, the Clerk of the Court is
19 directed, pursuant to Rule 54(b) of the Federal Rules of Civil
20 Procedure, to enter this Final Judgment.

21 DATED: 2/22/00

Jeffrey J. Miller
22 UNITED STATES DISTRICT JUDGE

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