Recd

FILED
-7 JAN 02 AM 10: 08
DISTRICT OF UTAH
BY: DEPUTY CLERK

~~FILED~~
18 DEC 01 PM 2: 46
DISTRICT OF UTAH
BY: DEPUTY CLERK

Thomas M. Melton (4999)
William B. McKean (4883)
Securities and Exchange Commission
Salt Lake District Office
50 South Main, Suite 500
Salt Lake City, Utah 84144
(801) 524-5796

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

SECURITIES AND EXCHANGE COMMISSION Plaintiff, v. R. BRUCE ACACIO Defendant.	Case No. FINAL JUDGMENT OF PERMANENT INJUNCTION AND OTHER RELIEF AS TO R. BRUCE ACACIO 2:01CV-1010ST

Plaintiff, the Securities and Exchange Commission ("Commission"), has duly commenced this action by filing a Complaint for Permanent Injunction and Other Equitable Relief ("Complaint") in this matter. Defendant R. Bruce Acacio ("Acacio") has admitted the jurisdiction of this Court over him and the subject matter of this action, has waived a trial on the merits of the Complaint, has waived the entry of findings of fact and conclusions of law under Rule 52 of the Federal Rules of Civil Procedure, and without admitting or denying the allegations of the Complaint except as to the jurisdiction of the Court, has consented in the Consent annexed hereto and incorporated herein to the entry of this Judgment of Permanent Injunction ("Judgment") against him, as requested in the Complaint, permanently restraining and enjoining him from engaging in acts and practices which constitute and will constitute violations of Sections 17(a)(2) and (3) of the

Entered on docket
1/7/02 by:
Kam
Deputy Clerk

4

Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77q(a)(2) and (3)] and Rules 13b2-1 and 13b2-2 promulgated under the Securities Exchange Act of 1934 ("Exchange Act") [17 C.F.R. §§ 240.13b2-1 and 240.13b2-2], and aiding, abetting and causing violations of Sections 13(a) and 13(b)(2) of the Exchange Act, as amended [15 U.S.C. §§ 78m(a) and 78m(b)(2)] and Rules 12b-11, 12b-20, 13a-1 and 13a-13 thereunder [17 C.F.R. §§ 240.12b-11, 240.12b-20, 240.13a-1 and 240.13a-13]. It appearing that the Court has jurisdiction over Acacio and the subject matter and being fully advised in the premises and there being no just reason for delay:

I.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that defendant Acacio and his respective officers, agents, servants, employees, and those persons in active concert or participation with him, who receive actual notice of the judgment by personal service or otherwise, are permanently restrained and enjoined from, directly or indirectly, by use of the mails or any means or instrumentality of interstate commerce, in the offer or sale of securities of any issuer whatsoever, obtaining money or property by means of any untrue statement of material fact or any omission to state any material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, or engaging in any transaction, practice or course of business which operates or would operate as a fraud or deceit upon the purchaser of a security or other conduct of similar purport and object, in violation of Section 17(a)(2) or (3) of the Securities Act of 1933 [15 U.S.C. § 77q(a)(2) and (3)].

II.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Acacio and his agents, servants, employees and attorneys, and all persons acting in concert or participation with him, who receive actual notice of this Order by personal service or otherwise, and each of them, are permanently restrained and enjoined from, aiding and abetting or causing transactions, acts, practices and courses of business, and from engaging in conduct of similar purport and object which cause violations of Section 13(a) of the Exchange Act [15 U.S.C. §§ 78m(a)] and Rules 12b-11, 12b-20, 13a-1 and 13a-13 [17 C.F.R. §§ 240.12b-11, 240.12b-20, 240.13a-1 and 240.13a-13] promulgated thereunder.

III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Acacio and his agents, servants, employees and attorneys, and all persons acting in concert or participation with him, who receive actual notice of this Order by personal service or otherwise, and each of them, are permanently restrained and enjoined from, engaging in transactions, acts, practices and courses of business, and from engaging in conduct of similar purport and object, including but not limited to,

A) aiding, abetting and causing a company which files any document or report with the Commission to fail to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer; and to fail to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are executed in accordance with management's general or specific authorization, and that transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and to maintain accountability for assets; or

B) falsifying or causing to be falsified, any book, record or account subject to Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)]; or making or causing to be made a materially false or misleading statement; or omitting to state, or causing another person to omit to state, any material fact necessary in order to make statements made, in the light of the circumstances under which such statements were made, not misleading to an accountant in connection with any audit or examination of the financial statements of the issuer required to be made, or the preparation or filing of any document or report required to be filed with the Commission;

in violation of Section 13(b)(2) of the Exchange Act [15 U.S.C. § 78m(b)(2)] and Rules 13b2-1 and 13b2-2 [17 C.F.R. §§ 240.13b2-1 and 204.13b2-2] promulgated thereunder.

IV.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Acacio shall pay a civil penalty of $30,000 pursuant to Section 21(d) (3) of the Securities Exchange Act of 1934 [15 U.S.C. § 78u(d) (3)] to the United States Treasury, by making an initial payment of $15,000 within 15 days of the entry of this Order, and the remaining $15,000 shall be paid by monthly payments of $1250 each, commencing within 30 days of the initial $15,000 payment and continuing on a monthly basis for twelve months. Such payments shall be: (A) made by United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Comptroller, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, Virginia 22312; and (D) submitted under cover of letter that identifies Defendant R. Bruce Acacio as a Defendant in these proceedings; the caption and the Civil Number of these proceedings, the name of the United States District Court in which it was filed; a copy of which shall be sent to Kenneth D. Israel, District Administrator, Securities and Exchange Commission, 50 South Main Street, Suite 500, Salt Lake City, UT 84144.

V.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that this Court shall retain jurisdiction over this action for all other purposes.

DATED this 7th day of January, 2002.

United States District Judge

SUBMITTED BY:

Thomas M. Melton, Esq.
William B. McKean, Esq.
Attorneys for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
50 South Main, Suite 500
Salt Lake City, Utah 84144
(801) 524-5796

AGREED AS TO FORM:

Michael T. Hornak
Attorney for R. Bruce Acacio
Rutan & Tucker, LLP
611 Anton Boulevard, 14th Floor
Costa Mesa, California 92626-1998
(714) 614-5100

CONSENT TO ENTRY OF INJUNCTION

Defendant R. Bruce Acacio ("Acacio") having read and understood the terms of the Final Judgment of Permanent Injunction ("Final Judgment") set forth above, appears and admits to the in personam jurisdiction of this Court and to the jurisdiction of the Court over the subject matter of this action, waives a trial on the merits and waives the entry of Findings of Fact and Conclusions of Law pursuant to Rule 52 of the Federal Rules of Civil Procedure and consents, without admitting or denying the allegations contained in the Complaint of plaintiff Securities and Exchange Commission ("Commission"), to the entry, without further notice, of the annexed Final Judgment.

1. Defendant Acacio agrees that this Consent ("Consent") shall be incorporated by reference in and made part of the Final Judgment set forth above to be presented to the Court for signature, filing and entry contemporaneously herewith.

2. Defendant Acacio waives any right he may have to appeal from the Final Judgment set forth above.

3. Defendant Acacio enters into this Consent voluntarily and acknowledges that no tender, offer, promise or threat of any kind has been made by plaintiff Commission or any member, officer, agent or representative thereof, to induce him to enter into this Consent.

4. Defendant Acacio acknowledges that he has been informed that plaintiff Commission, at its sole or exclusive discretion, may refer this matter, or any information or evidence gathered in connection therewith or derived therefrom, to any person or entity having appropriate civil, criminal or administrative jurisdiction. Acacio also acknowledges that he has been informed that the settlement of the instant action is not a bar to any action brought by the Securities

and Exchange Commission with respect to the acts and transactions of Acacio not described in the Complaint. Specifically, without limitation, Acacio acknowledges and agrees that settlement of the instant action shall not constitute a bar as to him or any other person to any action arising out of any other pending or future Commission investigation or inquiry. Acacio understands that nothing in this consent is a bar to or will estop any administrative proceeding brought by plaintiff based on either this injunction or on the matters alleged in the Complaint or any other matters. Acacio also understands that plaintiff and its attorneys and agents have not made and cannot make representations as to other actions, if any, which may be taken by other agencies or departments of the United States government against him based on the facts alleged in the Complaint.

5. Defendant Acacio acknowledges and agrees that this proceeding and his Consent are for the purposes of resolving this proceeding only, in conformity with the provisions of 17 C.F.R. 202.5(f), and do not resolve, affect, or preclude any other proceeding which may be brought against him. Consistent with the provisions of 17 C.F.R. 202.5(f), Defendant waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendant acknowledges that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in this civil proceeding.

6. Defendant Acacio agrees that he will be available for and respond to discovery to the same extent as if he were a party in any action brought by the Securities and Exchange Commission relating in whole or in part to the allegations set forth in the Complaint herein.

7. Defendant Acacio acknowledges that a willful violation of any of the terms or provisions of the Final Judgment set forth above may place him in contempt of this Court and subject him to civil or criminal sanctions.

8. Defendant Acacio further consents that this Court shall retain jurisdiction over this matter for all purposes.

9. Defendant Acacio hereby consents and agrees that the Final Judgment set forth above may be presented by the Commission to the Court for signature and entry without further notice or delay.

10. Defendant Acacio agrees to execute an "Affidavit of Receipt of Final Judgment" acknowledging notice of entry, service and receipt of a copy of the Final Judgment following entry by the Clerk of the Court. Such affidavit will be executed and furnished to counsel for plaintiff within twenty-one days of the entry of the Final Judgment by the Clerk.

11. Defendant Acacio understands and agrees to comply with the SEC's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings" (17 C.F.R. §202.5(e)). In compliance with this policy, Acacio agrees: (i) not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any allegation in the Complaint or creating the impression that the Complaint is without factual basis; and (ii) that upon the filing of this Consent, Acacio hereby withdraws any papers filed in this action to the extent that they deny

any allegation in the Complaint. However, nothing herein shall be perceived to imply that Acacio has admitted the allegations in the Complaint. If Acacio breaches this agreement, the SEC may petition the Court to vacate the Final Judgment and restore this case to its active docket. Nothing in this provision affects Acacio's testimonial obligations or right to take legal positions in litigation in which the SEC is not a party.

12. Defendant Acacio represents that he has read this Consent and that he has had an opportunity to consult with legal counsel before signing it.

13. Defendant Acacio further acknowledges that this Consent embodies the entire understanding of the parties.

Dated: 12/12, 2001

R. Bruce Acacio

STATE OF CA.)
COUNTY OF Orange)

On this 13th day of DEC., 2001, before me personally appeared MR. RONALD B. ACACIO to me known to be the person who executed the foregoing Consent.

Notary Public

ALBERT E. EID
COMM...1193970
NOTARY PUBLIC-CALIFORNIA
ORANGE COUNTY
My Term Exp. Aug. 20, 2002

kam

United States District Court
for the
District of Utah
January 7, 2002

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:01-cv-01010

True and correct copies of the attached were either mailed or faxed by the clerk to the following:

Mr. Thomas M Melton, Esq.
SECURITIES AND EXCHANGE COMMISSION
50 S MAIN STE 500
500 KEY BANK BLDG
SALT LAKE CITY, UT 84144-0402
JFAX 9,5243558