

ORIGINAL

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

SECURITIES AND EXCHANGE COMMISSION:

Plaintiff,

vs.

Case No. 1:02CV01575

**ENVIRONMENTAL SOLUTIONS
WORLDWIDE, INC., TEODISIO V. PANGIA,
JALON INVESTMENTS, LTD., GATA
INVESTMENTS, LTD., ALTEA INVESTMENTS,
LTD., SATBAL SINGH AKA SPAL SINGH,
ZOYA FINANCIAL CORPORATION, LTD.,
MICHAEL W. SMITH, ADAM MICHAEL
OLIVER, MARK BERGMAN, ACCESS 1
FINANCIAL, INC., BENGT ODNER, and
EUGENE FOO**

Defendants.

FILED

AUG 19 2004

**NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT**

STIPULATION AND CONSENT OF MICHAEL W. SMITH

Defendant Michael W. Smith ("Smith") hereby stipulates, consents and agrees to the following:

1. Defendant Smith admits service upon him of the Summons and Complaint of the Securities and Exchange Commission ("Commission") herein and admits the jurisdiction of this Court over him and over the subject matter of this action.

2. Defendant Smith acknowledges he has entered into this Stipulation and Consent ("Consent") voluntarily and represents that no promises of immunity, threats or assurances have been made by the Commission or by any of its members, officers, agents or representatives to induce him to enter into this Consent.

3. Defendant Smith waives the entry of Findings of Facts and Conclusions of Law pursuant to Rule 52 of the Federal Rules of Civil Procedure, and waives his rights to answer the Complaint.

4. Defendant Smith consents, without admitting or denying any of the allegations of the Complaint, except as to jurisdiction as noted herein, to the entry of the Final Judgment and Order of Permanent Injunction and Other Equitable Relief ("Final Judgment") in the form submitted herewith.

5. Defendant Smith waives any right he may have to appeal any order, judgment or decree of this Court entered in this action including entry of the Final Judgment.

7. Defendant Smith understands and agrees to comply with the Commission'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" as set forth in 17 C.F.R. § 202.5(e). In compliance with this policy, Smith 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, Smith hereby withdraws any papers filed in this action. If Smith breaches this agreement, the Commission may petition the Court to vacate the Final Judgment and restore this case to its active docket. Nothing in this provision affects Smith's testimonial obligations or right to take legal positions in litigation in which the Commission is not a party.

8. Consistent with provisions of 17 C.F.R. § 202.5(f), Smith waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Smith acknowledges that this Consent and the Final

Judgment do not bar the institution or prosecution against Smith of any other action, civil, criminal or administrative, arising as a result of the matters alleged in the Complaint.

9. Defendant Smith acknowledges that he has been advised and understands that the Court may adjudge him to be in civil or criminal contempt if he commits any violation of the Final Judgment entered pursuant to this Consent.

10. Defendant Smith agrees that the Court will retain jurisdiction over him and over the subject matter of this action in order to implement and carry out the terms of all orders and decrees that may be entered herein and to entertain any suitable application or motion by the parties for additional relief within the jurisdiction of this Court.

11. Defendant Smith waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996 or any other provision of law to pursue reimbursement of attorney's fees or other fees, expenses or costs expended by Smith to defend this action. Defendant Smith agrees that he is not the prevailing party in this action since the parties have reached a good faith settlement.

12. Defendant Smith agrees that he will not oppose the enforcement of the Final Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection he may have based thereon.

13. Defendant Smith agrees that this Consent shall be filed with the Final Judgment and will be incorporated into the Final Judgment with the same force and effect as if fully set forth therein.

14. Defendant Smith stipulates that the Final Judgment may be presented by the Commission to the Court for signature and entry without further notice.

15. Defendant Smith agrees to waive service upon him of the Final Judgment and agrees that entry of the Final Judgment by the Court will constitute notice to him of the

terms and conditions of the Final Judgment.

Dated: August 6, 2004.



MICHAEL W. SMITH

SUBSCRIBED AND SWORN TO BEFORE ME this 6th day of August, 2004 to
certify which witness my hand and official seal.



Notary Public

My commission expires: N/A.

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FINANCIAL, INC., BENGT ODNER, and
EUGENE FOO

Defendants.

**AGREED FINAL JUDGMENT OF PERMANENT INJUNCTION
AND OTHER EQUITABLE RELIEF AGAINST MICHAEL W. SMITH**

Plaintiff Securities and Exchange Commission ("Commission"), having filed its Complaint in this matter and defendant Michael W. Smith ("Smith"), through his Stipulation and Consent ("Consent"), having admitted service of the Complaint and waived service of the summons, having admitted the jurisdiction of this Court over him, having waived the entry of findings of facts and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, having entered into this Consent voluntarily, no threats, promises of immunity or assurances having been made by the Commission or by any of its members, officers, agents or representatives to induce him to enter into this Consent, having consented, without admitting or denying any of the allegations in the Commission's Complaint, except as to jurisdiction as set forth above, to entry without further notice of this Final Judgment of Permanent Injunction and Other Equitable Relief ("Final Judgment") enjoining defendant

Smith from engaging in transactions, acts, practices and courses of business which constitute and would constitute violations of Sections 5(a) and 5(c) of the Securities Act of 1933 ("Securities Act") and Sections 10(b) and 13(b)(5) of the Securities Exchange Act of 1934 (the "Exchange Act"), and Rule 10b-5, thereunder; and from aiding and abetting violations of Sections 13(a), 13(b)(2)(A), and 13(b)(5) of the Exchange Act and Rules 12b-20, 13a-1 and 13b2-1, thereunder; and it further appearing that this Court has jurisdiction over defendant Smith and over the subject matter of this action and that no further notice of hearing for the entry of this Final Judgment need be given; and the Court being fully advised in the premises;

I.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that defendant Smith and his agents, servants, employees, attorneys-in-fact and all other persons in active concert or participation with him who receive actual notice of this Agreed Final Judgment by personal service or otherwise, and each of them, be and hereby are permanently restrained and enjoined from, in the offer or sale of securities, from violating Sections 5(a) and 5(c) of the Securities Act of 1933 [15 U.S.C. §§ 77e(a) and 77e(c)], in the offer or sale of securities, by:

(a) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell the securities of any issuer, through the use or medium of any prospectus or otherwise, unless and until a registration statement is in effect as to such securities;

(b) carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or for

delivery after sale, the securities of any issuer, unless and until a registration statement is in effect as to such securities; or

(c) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise the securities of any issuer, unless and until a registration statement has been filed with the Commission as to such securities, or while a registration statement as to such securities is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding of examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

II.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Smith and his agents, servants, employees, attorneys-in-fact and all other persons in active concert or participation with him who receive actual notice of this Final Judgment by personal service or otherwise, be and hereby are permanently restrained and enjoined from violating Section 10(b) of the Exchange Act, [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5], promulgated thereunder, directly or indirectly, in connection with the purchase or sale of securities, in the form of common stock or any other security, from making use of any means or instrumentalities of interstate commerce or of the mails, or of any facility of any national securities exchange:

- (a) to employ any device, scheme or artifice to defraud;
- (b) to make any untrue statement of a material fact or omit to state a

material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

(c) to engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Smith, his nominees, agents, officers, directors, servants, employees, successors, attorneys, assigns, corporations, other persons or entities under their control, and those persons in active concert or participation with him who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, are permanently restrained and enjoined from, directly or indirectly, violating and aiding and abetting violations of Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Rule 13b2-1 thereunder [17 C.F.R. §§ 240.13b2-1] by knowingly circumventing or knowingly failing to implement a system of accounting controls or knowingly falsifying any book, record or account subject to Section 13(b)(2)(A) of the Exchange Act.

IV.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Smith, his nominees, agents, officers, directors, servants, employees, successors, attorneys, assigns, corporations, other persons or entities under their control, and those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, are permanently restrained and enjoined from, directly or indirectly, aiding and abetting another's violations of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, and 13a-1 thereunder [17 C.F.R. §§

240.12b-20 and 240.13a-1], by failing to file with the Commission any report or statement required to be filed with the Commission pursuant to Section 13(a) of the Exchange Act and the rules and regulations promulgated thereunder, or information and documents required by the Commission to keep reasonably current the information and documents required to be included in or filed with an application or registration statement filed pursuant to Section 12 of the Exchange Act.

V.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Smith, his nominees, agents, officers, directors, servants, employees, successors, attorneys, assigns, corporations, other persons or entities under their control, and those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, are permanently restrained and enjoined from, directly or indirectly, aiding and abetting another's violations of Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)] and Rule 13b2-1, thereunder, by failing to make and keep books, records and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets of the issuer.

VI.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Smith, his agents, employees, servants, attorneys-in-fact, and those persons in active concert with them, and each of them, be and they hereby are permanently enjoined and restrained from acting as a director or officer of any issuer having a class of securities registered with the Commission pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

VII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Smith shall pay disgorgement in the amount of \$125,700, plus prejudgment interest of \$43,388.57. Defendant shall make this payment within ten (10) business days after the entry of this Final Judgment by certified check, bank cashier's check, or United States postal money order payable to the "Securities and Exchange Commission". The payment shall be delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be accompanied by a letter that identifies the defendant in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Final Judgment. Defendant Smith shall also transmit a copy of the accompanying cover letter and payment to Harold F. Degenhardt, District Administrator, Securities and Exchange Commission, Fort Worth District Office, 801 Cherry Street, 19th Floor, Unit 18, Fort Worth, Texas 76102.

VIII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Smith shall pay a civil money penalty in the amount of \$50,000, pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)] to the United States Treasury. Defendant shall satisfy this obligation by paying said amount within ten (10) business days to the Clerk of this Court, together with a cover letter identifying Defendant Smith as a defendant in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Final Judgment. Defendant Smith shall simultaneously transmit photocopies of such payment and letter to

the Commission's counsel in this action. By making this payment, Defendant Smith relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Defendant Smith.

The Clerk shall deposit the funds into an interest bearing account with the Court Registry Investment System ("CRIS"). These funds, together with any interest and income earned thereon (collectively, the "Fund"), shall be held by the CRIS until further order of the Court. In accordance with the guidelines set by the Director of the Administrative Office of the United States Courts, the Clerk is directed, without further order of this Court, to deduct from the income earned on the money in the Fund a fee equal to ten percent of the income earned on the Fund. Such fee shall not exceed that authorized by the Judicial Conference of the United States.

The Commission may by motion propose a plan to distribute the Fund subject to the Court's approval. Such a plan may provide that Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendant Smith shall not, in any Related Investor Action, benefit from any offset or reduction of any investor's claim by the amount of any Fair Fund distribution to such investor in this action that is proportionately attributable to the civil penalty paid by Defendant ("Penalty Offset"). If the court in any Related Investor Action grants such an offset or reduction, Defendant Smith shall, within 30 days after entry of a final order granting the offset or reduction, notify the Commission's counsel in this action and pay the

amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this Judgment. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Defendant Smith by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

IX.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Consent filed herein be, and the same is hereby, incorporated in this Final Judgment with the same force and effect as if fully set forth herein.

X.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction of this action for all purposes, including for purposes of entertaining any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court, including but not limited to the relief requested by the Commission in its Complaint in this action.

XI.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Final Judgment may be served upon defendant Smith in person or by mail either by the United States marshal, by the Clerk of the Court or by any member of the staff of the Commission.

XII.

IT IS FINALLY ORDERED, ADJUDGED AND DECREED that, pursuant to the Court's express determination that there is no just reason for delay and pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is hereby directed to enter judgment accordingly.

DATED and SIGNED this 17th day of August, 2004.


UNITED STATES DISTRICT JUDGE

Agreed as to Form and Substance:


FRANK C. RAZZANO
Counsel for Michael W. Smith