

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Priority _____
Send _____
Enter _____
Closed _____
JS-5/JS-6 _____
JS-2/JS-3 _____
Scan Only _____

FILED
CLERK, U.S. DISTRICT COURT
SEP 27 2002
CENTRAL DISTRICT OF CALIFORNIA
BY [Signature]

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

LOGGED

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

JOHN GIESECKE JR., JOSEPH J.
SHEW, AND JOHN R. DESIMONE,

Defendants.

Civil Action No. 02-7471

FINAL JUDGMENT OF
PERMANENT INJUNCTION AND
OTHER RELIEF AGAINST
DEFENDANT JOSEPH J. SHEW

SVW (RZx)

ENTERED
SEP 30 2002
CV [Signature]

Plaintiff Securities and Exchange Commission ("Commission"), having filed and served upon Defendant Joseph J. Shew ("Shew") a Summons and Complaint in this action; Shew 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 Joseph J. Shew ("Judgment") without admitting or denying the allegations in the Complaint, except as specifically set forth in the Consent Of Joseph J. Shew To Entry Of Final

4

1 Judgment Of Permanent Injunction And Other Relief (“Consent”); no notice of
2 hearing upon the entry of this Judgment being necessary; and this Court being
3 fully advised:

4 I.

5 IT IS ORDERED, ADJUDGED, AND DECREED that Shew and his agents,
6 servants, employees, attorneys, and all persons in active concert or participation
7 with any of them, who receive actual notice of this Judgment, by personal service
8 or otherwise, and each of them, are permanently restrained and enjoined from,
9 directly or indirectly, in the offer or sale of the securities of any issuer, by the use
10 of any means or instruments of transportation or communication in interstate
11 commerce or by the use of the mails:

- 12 A. employing any device, scheme or artifice to defraud;
13 B. obtaining money or property by means of any untrue statement of a
14 material fact or any omission to state a material fact necessary in
15 order to make the statements made, in the light of the circumstances
16 under which they were made, not misleading; or
17 C. engaging in any transaction, practice, or course of business which
18 operates or would operate as a fraud or deceit upon the purchaser;
19 in violation of Section 17(a) of the Securities Act of 1933, 15 U.S.C. § 77q(a).

20 II.

21 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Shew
22 and his agents, servants, employees and attorneys, and all persons in active concert
23 or participation with any of them, who receive actual notice of this Judgment by
24 personal service or otherwise, and each of them, are permanently restrained and
25 enjoined from, directly or indirectly, in connection with the purchase or sale of any
26 security, by the use of any means or instrumentality of interstate commerce, or of
27 the mails, or of any facility of any national securities exchange:

28

1 misleading to an accountant in connection with (1) an audit or
2 examination of financial statements required to be made pursuant to
3 the Exchange Act regulations, or (2) the preparation or filing of
4 reports or documents required to be filed with the Commission
5 pursuant to Exchange Act regulations or otherwise;

6 in violation of Section 13(b)(5) of the Exchange Act, 15 U.S.C. § 78m(b)(5), and
7 Rules 13b2-1 and 13b2-2 thereunder, 17 C.F.R. §§ 240.13b2-1 and 240.13b2-2.

8 IV.

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Shew
10 and his agents, servants, employees and attorneys and all persons in active concert
11 or participation with any of them, who receive actual notice of this Final
12 Judgment, by personal service or otherwise, and each of them, are permanently
13 restrained and enjoined from, directly or indirectly:

14 causing the filing of a required periodic report with the Commission
15 containing any untrue statement of material fact or omitting to state a
16 material fact required to be stated or necessary in order to make the
17 statements made, in light of the circumstances under which they were
18 made, not misleading;

19 in violation of Section 13(a) of the Exchange Act, 15 U.S.C. § 78m(a), and Rules
20 12b-20 and 13a-13 thereunder, 17 C.F.R. §§ 240.12b-20 and 240.13a-13.

21 V.

22 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Shew
23 and his agents, servants, employees and attorneys, and all persons in active concert
24 or participation with any of them, who receive actual notice of this Judgment, by
25 personal service or otherwise, and each of them, are permanently restrained and
26 enjoined from, directly, or indirectly, by the use of any means or instrumentality of

27
28

1 interstate commerce or of the mails, or of any facility of any national securities
2 exchange:

3 causing the failure to make and keep accurate books, records, and
4 accounts which, in reasonable detail, accurately and fairly reflect
5 financial transactions and disposition of assets;

6 in violation of Section 13(b)(2)(A) of the Exchange Act, 15 U.S.C.

7 § 78m(b)(2)(A).

8

9

VI.

10 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
11 Defendant Shew shall pay disgorgement in the amount of \$1,004,825, representing
12 his ill-gotten gains, plus prejudgment interest thereon in the amount of
13 \$48,926.64. Shew shall pay the disgorgement and prejudgment interest within
14 thirty (30) days of entry of this Final Judgment to the Registry of this Court
15 pending further Order, under cover of a letter that identifies Defendant Shew, the
16 caption and case number of this action, and the name of this Court. Such payment
17 shall be made by cashier's check, certified check or postal money order made
18 payable to "Clerk, U.S. District Court." A copy of the form of payment and the
19 accompanying letter shall simultaneously be transmitted to counsel for the
20 Commission at its Los Angeles office, located at 5670 Wilshire Boulevard, 11th Floor,
21 Los Angeles, California 90036.

22

VII.

23 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Shew be
24 prohibited permanently, pursuant to Section 21(d)(2) of the Exchange Act, 15 U.S.C.
25 § 78u(d)(2), from acting as an officer or director of any issuer that has a class of
26 securities registered pursuant to Section 12 of the Exchange Act, 15 U.S.C. § 781, or

27

28

1 that is required to file reports pursuant to Section 15(d) of the Exchange Act, 15
2 U.S.C. § 78o(d).

3 VIII.

4 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the
5 provisions of the Consent filed concurrently with this Judgment are incorporated
6 herein with the same force and effect as if fully set forth herein and that Shew shall
7 comply with his Consent.

8 IX.

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court
10 shall retain jurisdiction over this action for all purposes, including to implement and
11 enforce the terms of this Judgment and other orders and decrees which may be
12 entered, and to grant such other relief as this Court may deem necessary and just.

13 X.

14 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
15 during the pendency of this action against any defendant, Shew shall remain subject
16 to the discovery provisions of the Federal Rules of Civil Procedure which apply to
17 parties, and, in addition, that Shew agrees and undertakes, without service of a
18 subpoena, to appear for his deposition or to testify as a witness at any trial of this
19 action or at any related proceeding. Failure to comply with the foregoing will subject
20 Shew to the remedies and sanctions set forth in Rule 37 of the Federal Rules of Civil
21 Procedure and all other available remedies.

22 ***

23 ***

24 ***

25 ***

26 ***

27 ***

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

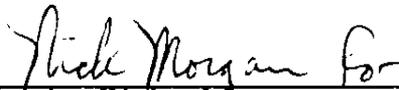
XI.

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

DATED: 9/26/02


UNITED STATES DISTRICT JUDGE

Submitted By:



Jessica Rigley Marren
Attorney for Plaintiff
Securities and Exchange Commission