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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

DANIEL D. DYER and OXBOW
CAPITAL PARTNERS, LLC,

Defendants.

CV. 03-968-KI

**FINAL JUDGMENT OF
PERMANENT INJUNCTION AND
OTHER RELIEF AGAINST
DEFENDANTS DANIEL D. DYER
AND OXBOW CAPITAL
PARTNERS, LLC**

The Securities and Exchange Commission, having filed a Complaint and served upon Defendants Daniel D. Dyer and Oxbow Capital Partners, LLC ("Defendants") a Summons and Complaint in this action; Defendants having admitted service upon them of the Summons and Complaint in this action and the general jurisdiction of this Court over them and over the subject matter of this action; Defendants having been fully advised and informed of their right to a judicial determination of this matter; Defendants having waived the entry of findings of fact and conclusions of law as provided by Rule 52 of the Federal Rules of Civil Procedure; Defendants having consented to the entry of this Final Judgment Of Permanent Injunction And Other Relief Against Defendants Daniel

D. Dyer And Oxbow Capital Partners, LLC (“Final Judgment”), without admitting or denying the allegations in the Complaint, except as specifically set forth in the Consent Of Defendant Daniel D. Dyer To Entry Of Final Judgment Of Permanent Injunction And Other Relief and the Consent Of Defendant Oxbow Capital Partners, LLC To Entry Of Final Judgment Of Permanent Injunction And Other Relief (collectively, the “Consents”); no notice of hearing upon the entry of this Final Judgment being necessary; and this Court being fully advised, and there being no just reason for delay:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants and Defendants’ agents, servants, employees, attorneys, and all 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 violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5, by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

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

II.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants and Defendants' agents, servants, employees, attorneys, and all 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 violating, directly or indirectly, Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

III.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants and Defendants' agents, servants, employees, attorneys, and all 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 violating Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. § 77e(a) & 77e(c), by, directly or indirectly, in the absence of any applicable exemption:

- (a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the

use or medium of any prospectus or otherwise;

- (b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; 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 any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement 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.

IV.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants and Defendants' agents, servants, employees, attorneys, and all 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 violating Sections 206(1) and 206(2) of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-6(1) and (2), by use the mails or any means or instrumentality of interstate commerce, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud any client or prospective client; or
- (b) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

V.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants are jointly and severally liable for disgorgement of \$3.96 million, representing profits gained as a result of the conduct alleged in the Complaint, together with pre-judgment interest thereon in the amount of \$28,473, for a total of \$3,988,473. Based on the sworn representations of Dyer and Oxbow Partners in their Statements of Financial Condition dated September 30, 2003 and February 12, 2004, respectively, and other documents and information submitted to the Commission, however, payment of all but \$50,000 in disgorgement is waived. Additionally, based on Defendants' sworn representations in their Statements of Financial Condition, this Court is not ordering Defendants to pay a civil penalty pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), and Section 209(e) of the Advisers Act, 15 U.S.C. § 80b-9(e).

VI.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants will pay \$6,250 of the disgorgement amount within 5 days of entry of this Final Judgment and pay the remainder in seven equal quarterly payments of \$6,250, plus post-judgment interest on each quarterly payment calculated pursuant to 28 U.S.C. § 1961. The quarterly payments shall be due in intervals of three months beginning with the three-month period after the entry of this Final Judgment. Should Dyer fail to make any payment on the date it is required to be paid, the unpaid portion of the \$50,000 in disgorgement, plus post-judgment interest thereon, shall become immediately due and payable without further order by this Court. All payments shall be made by cashier's check, certified check, or postal money order made payable to the Securities and Exchange Commission and shall be transmitted to the Comptroller, Securities and

Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, Virginia 22312, under cover of a letter that identifies the Defendants, the name and case number of this litigation, and the Court. A copy of the cover letter and the check or money order shall be simultaneously transmitted to counsel for the Commission at its Pacific Regional Office, located at 5670 Wilshire Boulevard, 11th Floor, Los Angeles, California 90036.

VII.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that the partial waiver of disgorgement and interest and the determination not to assess a civil penalty are contingent upon the accuracy and completeness of Defendants' Statements of Financial Condition. If at any time following the entry of this Final Judgment the Commission obtains information indicating that Defendants' representations to the Commission concerning their assets, income, liabilities, or net worth were fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made, the Commission may, at its sole discretion and without prior notice to Defendants, petition the Court for an order requiring Defendants to pay the unpaid portion of the disgorgement, pre-judgment and post-judgment interest thereon, and the maximum civil penalty allowable under the law. In connection with any such petition, the only issue shall be whether the financial information provided by Defendants was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made. In its petition, the Commission may move this Court to consider all available remedies, including, but not limited to, ordering Defendants to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of this Final Judgment. The Commission may also request additional discovery. Defendants may not, by way of defense to such petition: (1) challenge the validity of the Consents or the Final

Judgment; (2) contest the allegations in the Complaint filed by the Commission; (3) assert that payment of disgorgement, pre-judgment and post-judgment interest or a civil penalty should not be ordered; (4) contest the amount of disgorgement and pre-judgment and post-judgment interest; (5) contest the imposition of the maximum civil penalty allowable under the law; or (6) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

VIII.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants will assign all their rights, title, and interests in Oxbow Capital 1999 Fund I, LLC and Topia Ventures, Inc. to the Receiver for Capital Consultants, LLC, Thomas F. Lennon. Defendants will exercise their best efforts to promptly effectuate the assignment of said rights, title, and interests to the Capital Consultants' Receiver within 90 days of entry of this Final Judgment.

IX.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that the Consents are incorporated herein with the same force and effect as if fully set forth herein, and that Defendants shall comply with all of the undertakings and agreements set forth therein.

X.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

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

DATED: 5/11/04 Garrison
UNITED STATES DISTRICT JUDGE

PROOF OF SERVICE

I am over the age of 18 years and not a party to this action. My business address is:

[X] U.S. SECURITIES AND EXCHANGE COMMISSION, 5670 Wilshire Boulevard, 11th Floor, Los Angeles, California 90036-3648

Telephone No. (323) 965-3998; Facsimile No. (323) 965-3908.

On May 5, 2004, I served the document entitled **FINAL JUDGMENT OF PERMANENT INJUNCTION AND OTHER RELIEF AGAINST DEFENDANTS DANIEL D. DYER AND OXBOW CAPITAL PARTNERS, LLC** upon the parties to this action addressed as stated on the attached service list:

[X] **OFFICE MAIL:** By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with this agency's practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

[] **PERSONAL DEPOSIT IN MAIL:** By placing in sealed envelope(s), which I personally deposited with the U.S. Postal Service. Each such envelope was deposited with the U.S. Postal Service at Los Angeles, California, with first class postage thereon fully prepaid.

[] **EXPRESS U.S. MAIL:** Each such envelope was deposited in a facility regularly maintained at the U.S. Postal Service for receipt of Express Mail at Los Angeles, California, with Express Mail postage paid.

[] **HAND DELIVERY:** I caused to be hand delivered each such envelope to the office of the addressee.

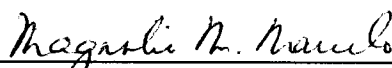
[] **FEDERAL EXPRESS BY AGREEMENT OF ALL PARTIES:** By placing in sealed envelope(s) designated by Federal Express with delivery fees paid or provided for, which I deposited in a facility regularly maintained by Federal Express or delivered to a Federal Express courier, at Los Angeles, California.

[] **ELECTRONIC MAIL:** By transmitting the document by electronic mail to the electronic mail address as stated on the attached service list.

[] **FAX (BY AGREEMENT ONLY):** By transmitting the document by facsimile transmission. The transmission was reported as complete and without error.

[X] **(Federal)** I declare that I am employed in the office of a member of the bar of this Court, at whose direction the service was made. I declare under penalty of perjury that the foregoing is true and correct.

Date: May 5, 2004


MAGNOLIA M. MARCELO

SEC v. DANIEL D. DYER, et al.
United States District Court - District of Oregon
Case No. CV 03-968 KI
(LA-2374)

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