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3:03-CV-01785 SECURITIES V. KLINGER

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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY

DEPUTY

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

03 CV 1785 J (Jma)

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

KRIS KLINGER,

Defendant.

Civil Action No.

**FINAL JUDGMENT OF  
PERMANENT INJUNCTION AND  
OTHER RELIEF AGAINST KRIS  
KLINGER**

Plaintiff Securities and Exchange Commission ("Commission"), having filed and served upon Defendant Kris Klinger ("Klinger") a Summons and Complaint in this action; Klinger 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 Kris Klinger ("Judgment")

4  
ENTERED ON

9-10-03

1 without admitting or denying the allegations in the Complaint, except as  
2 specifically set forth in the Consent Of Kris Klinger To Entry Of Final Judgment  
3 Of Permanent Injunction And Other Relief ("Consent"); no notice of hearing upon  
4 the entry of this Judgment being necessary; and this Court being fully advised:

5 I.

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

- 13 A. employing any device, scheme, or artifice to defraud;  
14 B. making any untrue statement of a material fact or omitting to state a  
15 material fact necessary in order to make the statements made, in the light  
16 of the circumstances under which they were made, not misleading; or  
17 C. engaging in any act, practice, or course of business which operates or  
18 would operate as a fraud or deceit upon any person;

19 in violation of Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C.  
20 § 78j(b) (the "Exchange Act"), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

21 II.

22 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Klinger  
23 shall pay disgorgement in the amount of \$9,135.00, representing ill-gotten gains as  
24 a result of the conduct alleged in the Complaint, plus prejudgment interest in the  
25 amount of \$297.13. Klinger shall pay, by cashier's check, certified check, or postal  
26 money order, the total sum of \$9,432.13 in disgorgement within thirty (30) days of  
27 entry of this Judgment. This disgorgement payment shall be made payable to the  
28

1 Securities and Exchange Commission and shall be transmitted to the Office of  
2 Financial Management, Securities and Exchange Commission, Operations Center,  
3 6432 General Green Way, Stop 0-3, Alexandria, VA 22312, under cover of a letter  
4 that identifies the defendant, the name and case number of this litigation, and the  
5 court. Copies of this cover letter and the certified check shall be simultaneously  
6 transmitted to counsel for the Commission in this action at its Pacific Regional  
7 Office.

8 III.

9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Klinger is  
10 assessed, and shall pay to the Commission for delivery to the United States Treasury,  
11 civil penalties in the amount of \$9,135.00 pursuant to Section 21A of the Exchange  
12 Act, 15 U.S.C. § 78u-1. Klinger shall pay the above penalty by cashier's check,  
13 certified check, or postal money order within thirty (30) days of entry of the  
14 Judgment. This payment shall be made payable to the United States Treasury and  
15 shall be transmitted to the Office of Financial Management, Securities and Exchange  
16 Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA  
17 22312, under cover of a letter that identifies the defendant, the name and case number  
18 of this litigation, and the court. Copies of this cover letter and the certified check  
19 shall be simultaneously transmitted to counsel for the Commission in this action at  
20 its Pacific Regional Office.

21 IV.

22 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the  
23 provisions of the Consent filed concurrently with this Judgment are incorporated  
24 herein with the same force and effect as if fully set forth herein and that Klinger shall  
25 comply with his Consent.  
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V.

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

VI.

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

VII.

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: September 9, 2003

  
UNITED STATES DISTRICT JUDGE

Submitted By:



Attorney for Plaintiff  
Securities and Exchange Commission