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04-74702

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MICHIGANVICTORIA A. ROBERTS
MAGISTRATE JUDGE PEPE

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 SECURITIES AND EXCHANGE COMMISSION,)
)
) Plaintiff,)
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) v.)
)
)
)
) JOHN PAUL ORR, et al.)
)
)
) Defendants.)
)
)
 - - - - - x

04 Civ.

FINAL JUDGMENT
AS TO DEFENDANT
MICHAEL K. FRANK

FILED

DEC - 2 2004

The Securities and Exchange Commission having filed a Complaint and Defendant Michael K. Frank ("Frank") having entered a general appearance; consented to the Court's jurisdiction over him and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Frank and his 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 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 FURTHER ORDERED, ADJUDGED, AND DECREED that Frank and his 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 are permanently restrained and enjoined from violating Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1] by, directly or indirectly, 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)].

III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Frank and his 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 are permanently restrained and enjoined from violating Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] by knowingly circumventing or knowingly failing to implement a system of internal accounting controls or knowingly falsifying any book, record or account subject to section 13(b)(2) of the Exchange Act [15 U.S.C. § 78m(b)(2)].

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Frank and his 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 are permanently restrained and enjoined from violating Rule 13b2-2 of the Exchange Act [17 C.F.R. § 240.13b2-2] by, directly or indirectly, (a) making or causing to be made a materially false or misleading statement, or (b) omitting to state, or causing another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances

under which such statements were made, not misleading to an accountant, in connection with (1) any audit or examination of the financial statements of the issuer required by the federal securities laws or (2) the preparation or filing of any document or report required to be filed with the Commission.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Frank and his 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 are permanently restrained and enjoined from aiding and abetting any violation of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 13a-1 and 12b-20 thereunder [17 C.F.R. §§ 240.13a-1 and 240.12b-20] by knowingly providing substantial assistance to an issuer that files or causes to be filed with the Commission any report required to be filed with the Commission pursuant to Section 13(a) of the Exchange Act and the Exchange Act's rules and regulations that includes financial statements that are materially inaccurate.

VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], Frank is prohibited, for five years following the date of entry

of this Final Judgment, from acting as an officer or director of any issuer that has a class of securities registered 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, based on Frank's sworn representations in his Statement of Financial Condition dated March 9, 2004, and other documents and information submitted to the Commission, the Court is not ordering Frank to pay a civil penalty. The determination not to impose a civil penalty is contingent upon the accuracy and completeness of Frank's Statement of Financial Condition. If at any time following the entry of this Final Judgment the Commission obtains information indicating that Frank's representations to the Commission concerning his 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 Frank, petition the Court for an order imposing 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 Frank 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 Frank 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. Frank may not, by way of defense to such petition: (1) challenge the validity of this Consent or the Final Judgment; (2) contest the allegations in the Complaint filed by the Commission; (3) assert that payment of a civil penalty should not be ordered; (4) contest the imposition of the maximum civil penalty allowable under the law; or (5) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

VIII.

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

IX.

IT IS 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.

X.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Dated: DEC - 2 2004


UNITED STATES DISTRICT JUDGE