



- (a) employ any device, scheme, or artifice to defraud;
  - (b) 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) engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person; and
2. Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 9(a)(2) of the Exchange Act [15 U.S.C. §§ 78i(a)(2)], by effecting, alone or with one or more persons, a series of transactions in any security registered on a national securities exchange or in connection with any security-based swap agreement (as defined in Section 206B of the Gramm-Leach-Bliley Act) with respect to such security creating actual or apparent trading activity in such security, or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others; and
3. Defendant is liable for disgorgement of \$40,000, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$2,386. Defendant shall satisfy this obligation by paying \$42,386 within ten (10) business days

after entry of this Judgment to the Clerk of Court, together with a cover letter identifying Tim Dougherty 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 Judgment.

Defendant shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action. By making this payment, Defendant relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Defendant. The Clerk shall deposit the funds into the Registry of the Court. These funds, together with any interest and income earned thereon (collectively, the "Fund"), shall be held in an interest bearing account until further order of the Court; and

4. the Court shall reserve the issue of whether to order a civil penalty pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. The Court shall determine the amount of the civil penalty, if any, upon motion of the Commission. In connection with any motion by the Commission for a civil penalty, and at any hearing held on such a motion:
  - (a) Defendant will be precluded from arguing that he did not violate the federal securities laws as alleged in the Complaint;
  - (b) Defendant may not challenge the validity of the Consent of Defendant Tim Dougherty (the "Consent") or this Judgment;
  - (c) solely for the purposes of such motion, the allegations of the Complaint shall be accepted as and deemed true by the Court; and
  - (d) the Court may determine the issues raised in the motion

on the basis of affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence, without regard to the standards for summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. In connection with any motion by the Commission for a civil penalty, the parties may take discovery, including discovery from appropriate non-parties; and

5. the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

**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 Judgment and for determination of whether Defendant shall be ordered to pay a civil penalty and the amount of any such penalty.

**IT IS FURTHER ORDERED** that, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk of Court shall enter this Judgment forthwith and without further notice.

**BY THE COURT:**

  
**Hon. Petrese B. Tucker, U.S.D.J.**