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SOUTHERN DISTRICT OF CALIFORNIA

BY: *H. Rodney* DEPUTY

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE COMMISSION,	:
	:
Plaintiff,	:
	:
v.	:
	:
CHARLES ANTHONY FERRACONE,	:
JAMES W. FARRELL, JAMES L.	:
ERICKSTEEN, GARY L. MOORE,	:
JILL HALL, and GUIDO BENSBERG,	:
	:
Defendants	:

Civil Action No. 97CV1684H (POR)

**FINAL JUDGMENT AS TO
DEFENDANT CHARLES
ANTHONY FERRACONE**

Plaintiff SECURITIES AND EXCHANGE COMMISSION (the "COMMISSION"),
having duly commenced this action by filing its COMPLAINT FOR INJUNCTIVE AND OTHER
RELIEF (the "COMPLAINT"), and defendant CHARLES ANTHONY FERRACONE
("FERRACONE"), in his CONSENT AND UNDERTAKING OF CHARLES ANTHONY
FERRACONE (the "CONSENT"), having entered a general appearance herein, having admitted
the jurisdiction of this Court over him and over the subject matter of this action, and having waived
the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of
Civil Procedure, and, having withdrawn his answer to the COMPLAINT without admitting or
denying any of the allegations of the COMPLAINT, except as to jurisdiction, which he admits, and

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ENTERED ON 6-29-98

1 without trial, argument or adjudication of any issue of fact or law, having consented to the entry of
2 this FINAL JUDGMENT AS TO CHARLES ANTHONY FERRACONE (the "FINAL
3 JUDGMENT"), permanently restraining and enjoining him from violating Section 17(a) of the
4 Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)], Section 10(b) of the Securities
5 Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)], and Exchange Act Rule 10b-5
6 [17 C.F.R. § 240.10b-5] promulgated thereunder; and ordering FERRACONE to disgorge \$72,000,
7 and it further appearing that this Court has jurisdiction over FERRACONE and the subject matter
8 hereof, and the Court being fully advised in the premises:

9 **I.**

10 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that FERRACONE, his
11 agents, employees, servants, attorneys-in-fact, and all those persons in active concert or
12 participation with them who receive actual notice of this FINAL JUDGMENT by personal service
13 or otherwise, and each of them, be and they hereby are permanently enjoined and restrained from
14 violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], by, directly or indirectly, using
15 any means or instrumentality of transportation or communication in interstate commerce, or the
16 mails, in the offer or sale of any security:

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

24 **II.**

25 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that FERRACONE, his
26 agents, servants, employees, attorneys-in-fact, and all those persons in active concert or
27 participation with them who receive actual notice of this FINAL JUDGMENT by personal service
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1 or otherwise, and each of them, be and they hereby are permanently enjoined and restrained from
2 violating Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 [17 C.F.R. §
3 240.10b-5] thereunder, by, directly or indirectly, using any means or instrumentality of interstate
4 commerce, or of the mails, or of any facility of any national securities exchange:

- 5 (1) to employ any device, scheme or artifice to defraud;
- 6 (2) to make any untrue statement of a material fact or to omit to state a material fact
7 necessary in order to make the statements made, in light of the circumstances under
8 which they were made, not misleading; or
- 9 (3) to engage in any act, practice, or course of business which operates or would operate
10 as a fraud or deceit upon any person,

11 in connection with the purchase or sale of any security.

12 **III.**

13 **IT IS FURTHER ORDERED**, that FERRACONE pay disgorgement in the amount of
14 \$72,000, representing his gains from the conduct alleged in the COMPLAINT. Based upon
15 FERRACONE's sworn representations in his Statement of Financial Condition dated March 25,
16 1998, and submitted to the Commission, payment of such disgorgement obligation is waived,
17 contingent upon the accuracy and completeness of his Statement of Financial Condition.

18 **IV.**

19 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that based upon
20 FERRACONE's sworn representations to the COMMISSION in his Statement of Financial
21 Condition dated March, 25, 1998, and submitted to the Commission, the Court is not ordering
22 FERRACONE to pay a civil penalty pursuant to Section 20(d) of the Securities Act of 1933 [15
23 U.S.C. § 77t(d)] and Section 21(d)(3) of the Securities Exchange Act of 1934 [[15 U.S.C.
24 § 78u(d)(3)]. The determination not to impose a civil penalty and to waive payment of
25 FERRACONE's disgorgement obligation is contingent upon the accuracy and completeness of
26 FERRACONE's Statement of Financial Condition. If at any time following entry of this FINAL
27 JUDGMENT, the COMMISSION obtains information indicating that FERRACONE's
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1 representations to the Commission concerning his assets, income, liabilities, or net worth were
2 fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such
3 representations were made, the COMMISSION may, at its sole discretion and without prior notice
4 to FERRACONE, petition this Court for an order requiring FERRACONE to pay his \$72,000
5 disgorgement obligation, with post-judgment interest thereon, and a civil penalty. In connection
6 with any such petition, the only issues shall be whether the financial information provided by
7 FERRACONE was fraudulent, misleading, inaccurate or incomplete in any material respect as of
8 the time such representations were made, and the amount of the civil penalty to be imposed. In its
9 petition, the COMMISSION may move this Court to consider all available remedies, including, but
10 not limited to, ordering FERRACONE to pay funds or assets, directing the forfeiture of any assets,
11 or imposing sanctions for contempt of this Court's FINAL JUDGMENT, and the Commission may
12 also request additional discovery. FERRACONE may not, by way of defense to such petition,
13 challenge the validity of his CONSENT or this FINAL JUDGMENT, contest the allegations in the
14 COMPLAINT, or assert that disgorgement or the payment of a civil penalty should not be ordered.

15 **V.**

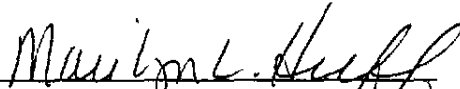
16 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the annexed
17 CONSENT be, and the same hereby is, incorporated herein by reference with the same force and
18 effect as if fully set forth herein.

19 **VI.**

20 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that this Court shall
21 retain jurisdiction of this matter for the purposes of enforcing the terms of this FINAL
22 JUDGMENT.

VII.

There being no just cause 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 FINAL JUDGMENT forthwith.


UNITED STATES DISTRICT JUDGE

DATED: 6/25/98