

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

CHARLES RICHARD HOMA, et al.

Defendants,

and

LINDY L. GAUSE, LINDA L. NICHOLS AND
NICHOLS AND ASSOCIATES,

Relief Defendants.

99 CV 6895
Hon. Ronald A.
Guzman

DOCKETED
JUL 18 2003

**ORDER OF DISGORGEMENT AND CIVIL PENALTIES AGAINST
PHILIP A. SHARPTON, PAS, INC. AND PAS HOLDINGS, INC.**

Plaintiff United States Securities and Exchange Commission ("Commission"), having filed an Amended Complaint for Temporary Restraining Order, Preliminary and Permanent Injunction, and Other Equitable Relief ("Amended Complaint"), and the Defendants Philip A. Sharpton ("Sharpton"), PAS, Inc. ("PAS"), and PAS Holdings, Inc. ("PASH") (collectively, the "Sharpton Defendants"), in their Consent and Stipulation filed with the Court and incorporated herein by reference ("Consent"), having acknowledged receipt of the Amended Complaint and admitted the personal jurisdiction of this Court over them, and the Commission and the Sharpton 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, and the Sharpton Defendants, without admitting or denying the allegations of the Amended Complaint except as to jurisdiction, and without trial, argument, or adjudication of any issue of fact or law, having consented to the entry of this Order of Disgorgement and Civil Penalties ("Disgorgement Order"), and the Court, being fully advised in the premises, hereby states:

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I.

IT IS ORDERED that the Sharpton Defendants shall pay disgorgement in the amount of \$918,093.21, representing their gains from the conduct alleged in the Commission's Amended Complaint in this matter, plus pre-judgment interest of \$221,670.99; provided, however, that upon the Sharpton Defendants' effective transfer of all of the assets listed on Attachment A to the Consent, which shall be made to Phillip S. Stenger, the Receiver ("Receiver"), all remaining disgorgement and interest shall be waived based upon the accuracy and completeness of the sworn financial statements of: a) Philip A. Sharpton, dated September 2000; b) PAS, dated September 2000; and c) PASH, dated September 2000, and the affidavit of Philip A. Sharpton, dated March 12, 2002, July 30, 2002, and January 14, 2003; which were all submitted to the Commission, and the financial deposition of Philip A. Sharpton on November 29, 2000, which was taken by the Commission. The transfer of assets listed on Attachment A shall be made within ten days of the entry of this Disgorgement Order.

II.

IT IS FURTHER ORDERED that based upon the sworn financial statements, the financial deposition of Philip A. Sharpton and the confirming affidavits dated March 12, 2002, July 30, 2002, and January 14, 2003, described in Section I. above the Court is not ordering the Sharpton Defendants to pay any civil penalty pursuant to Section 20(d) of the Securities Act of 1933 and Section 21(d)(3) of the Securities Exchange Act of 1934. The determination not to impose a penalty and to waive payment of the disgorgement and pre-judgment interest above and beyond the transfer of all the assets listed on Attachment A to the Consent is contingent on the

accuracy and completeness of each of the Sharpton Defendants' sworn statements regarding its financial condition, the deposition of Philip A. Sharpton on November 29, 2000, and the confirming affidavits dated March 12, 2002, July 30, 2002, and January 14, 2003.

If at any time following the entry of the Disgorgement Order the Commission obtains information indicating that any of the Sharpton 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, petition the Court for an order requiring any of the Sharpton Defendants to pay the balance of the \$918,093.21 in disgorgement, pre-judgment and post-judgment interest thereon, and the maximum civil penalty under the law. In connection with such petition, the only issues shall be whether the financial information provided by any of the Sharpton Defendants was fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made. In any such petition, the Commission may move the Court to consider all available remedies, including, but not limited to, ordering any of the Sharpton Defendants to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of the Court's Disgorgement Order. The Commission may also request additional discovery. The Sharpton Defendants may not, by way of defense to such petition, (1) challenge the validity of the Consent or the Disgorgement Order; (2) contest the Commission's allegations in the Amended Complaint; (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.

III.

IT IS FURTHER ORDERED that Defendant PAS is ordered to execute any necessary forms required for the appointment of the Receiver and the release of all claims against the Receiver or any assets held by the Receiver (the "Receivership Estate"), in a form acceptable to the Receiver, within ten days of the entry of this Disgorgement Order.

IV.

IT IS FURTHER ORDERED that Defendant PASH is ordered to execute any necessary forms required for the appointment of the Receiver and the release of all claims against the Receiver or the Receivership Estate, in a form acceptable to the Receiver, within ten days of the entry of this Disgorgement Order.

V.


IT IS FURTHER ORDERED that the attached Consent of Sharpton, PAS, and PASH be, and hereby is, incorporated herein with the same force and effect as if fully set out.

VI.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this action for all purposes, including enforcement of this Disgorgment Order.

VII.

IT IS FURTHER ORDERED that, there being no just reason for delay, the Clerk of the Court is hereby directed to enter this Disgorgement Order.


RONALD A. GUZMAN
UNITED STATES DISTRICT JUDGE

Dated: 7/11, 2003.