

KSR 8/30/05 13:18  
3:03-CV-01958 SECURITIES V. FRASIER  
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CITIZEN UNITED DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

*K. Ridgeway*  
DEPUTY CLERK

1 ROBERT M. FUSFELD  
THOMAS J. KRYSA  
2 Securities and Exchange Commission  
1801 California Street, Suite 1500  
3 Denver, Colorado 80202  
Telephone: (303) 844-1000  
4 Facsimile: (303) 844-1068

5 KAREN L. MATTESON (Ca. Bar No. 102103)  
Securities and Exchange Commission  
6 5670 Wilshire Boulevard, 11th Floor  
Los Angeles, California 90036-3648  
7 Telephone: (323) 965-3812  
Attorneys for United States  
8 Securities and Exchange Commission

9 UNITED STATES DISTRICT COURT

10 SOUTHERN DISTRICT OF CALIFORNIA

11 \_\_\_\_\_  
12 SECURITIES AND EXCHANGE COMMISSION, :

13 Plaintiff, :

14 v. :

15 RICHARD A. MAY, :

16 Defendant. :

Docket Number: ✓  
03-CV-1958-BTM(JFS)

ORDER OF PERMANENT  
INJUNCTION AS TO  
RICHARD A. MAY

17 \_\_\_\_\_  
18 The Securities and Exchange Commission having filed a Complaint and Defendant  
19 Richard A. May ("Defendant") having entered a general appearance; consented to the Court's  
20 jurisdiction over him and the subject matter of this action; consented to entry of this Order of  
21 Permanent Injunction ("Order") without admitting or denying the allegations of the Complaint  
22 (except as to jurisdiction); waived findings of fact and conclusions of law; and waived any right  
23 to appeal from this Order:  
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I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order 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 Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise are permanently restrained and enjoined from violating Section 5 of the Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any applicable exemption: (a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise; (b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate

1 commerce, by any means or instruments of transportation, any such security for the purpose of  
2 sale or for delivery after sale; or (c) Making use of any means or instruments of transportation or  
3 communication in interstate commerce or of the mails to offer to sell or offer to buy through the  
4 use or medium of any prospectus or otherwise any security, unless a registration statement has  
5 been filed with the Commission as to such security, or while the registration statement is the  
6 subject of a refusal order or stop order or (prior to the effective date of the registration statement)  
7 any public proceeding of examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

8 III.

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Court shall  
10 determine the remaining issues after a hearing: (a) whether it is appropriate to order  
11 disgorgement of ill-gotten gains and/or a civil penalty against Defendant pursuant to Section  
12 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15  
13 U.S.C. § 78u(d)(3)] and, if so, the amount(s) of the disgorgement and/or civil penalty; (b)  
14 whether it is appropriate to order an officer and director bar pursuant to Section 20(e) of the  
15 Securities Act [15 U.S.C. § 77t(e)] and Section 21(d)(2) of the Exchange Act [15 U.S.C.  
16 § 78u(d)(2)]; and (c) whether it is appropriate to order a penny stock bar pursuant to Section  
17 20(g) of the Securities Act [15 U.S.C. § 77t(g)] and Section 21(d)(6) of the Exchange Act [15  
18 U.S.C. § 78u(d)(6)]. If disgorgement is ordered, Defendant shall pay prejudgment interest  
19 thereon, calculated from November 29, 2000, based on the rate of interest used by the Internal  
20 Revenue Service for the underpayment of federal income tax as set forth in 26 U.S.C.  
21 § 6621(a)(2). At the hearing to determine the above issues: (a) Defendant will be precluded from  
22 arguing that he did not violate the federal securities laws as alleged in the Complaint, but  
23 Defendant may present mitigating evidence relevant to the issue of whether disgorgement, a civil  
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1 penalty, an officer and director bar, and a penny stock bar shall be ordered against Defendant,  
2 and the amount(s) of such disgorgement and/or civil penalty; (b) Defendant may not challenge  
3 the validity of the Consent or this Order; (c) solely for the purposes of the hearing, the  
4 Stipulation of Facts and Admissible Evidence (filed concurrently as Exhibit A to the Consent to  
5 Order of Permanent Injunction by Richard A. May) shall be deemed true and accepted by the  
6 Court, and Defendant shall not contest the factual stipulations therein; (d) the Court may  
7 determine the issues raised at the hearing on the basis of stipulations, affidavits, declarations,  
8 excerpts of sworn deposition or investigative testimony, and documentary and testimonial  
9 evidence, without regard to the standards for summary judgment contained in Rule 56(c) of the  
10 Federal Rules of Civil Procedure.

11 IV.

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

15 V.

16 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain  
17 jurisdiction of this matter for the purposes of enforcing the terms of this Order.

*Further ordered that the motion by plaintiff to enter order of permanent injunction is denied.*

18 Dated: August 29, 2005.

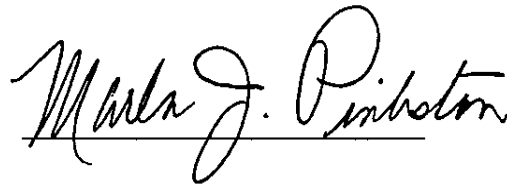
21 *[Signature]*  
22 UNITED STATES DISTRICT/MAGISTRATE JUDGE  
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CERTIFICATE OF SERVICE

I certify that on August 18, 2005, a copy of the foregoing ORDER OF PERMANENT INJUNCTION AS TO RICHARD A. MAY was mailed, by first class U.S. mail, postage prepaid to the following:

Richard May, Pro Se  
1944 Diamond Street, Unit 7  
San Diego, CA 92101  
619.559.1701

A handwritten signature in cursive script, reading "Mark J. Pinbotom", is written over a horizontal line.