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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

Case No. 3:02cv84 DMS (RBB)

JAMES E. FRANKLIN, et al.

[AMENDED ~~PROPOSED~~] ORDER AND
FINAL JUDGMENT OF DISGORGEMENT,
PRE AND POST JUDGMENT INTEREST,
AND CIVIL MONEY PENALTY AGAINST
DIETER RAABE

Defendants.

Courtroom: 10

Honorable Dana M. Sabraw

The Securities and Exchange Commission having filed a Complaint and Defendant Dieter Raabe ("Raabe") having entered a general appearance; consented to the Court's jurisdiction over Defendant Raabe and the subject matter of this action; consented to entry of an Order and Final Judgment on November 6, 2002, imposing injunctive relief and reserving monetary relief, and consented to entry of this Final Judgment of Disgorgement, Pre and Post Judgment Interest, and Civil Money Penalty, 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 the

November 6, 2002 Final Judgment of Injunctive Relief and this Final Judgment of Disgorgement, Pre and Post Judgment Interest, and Civil Money Penalty:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT

Defendant Raabe is liable for disgorgement of \$489,900, representing his gains as a result of the conduct alleged in the complaint, together with prejudgment interest thereon in the amount of \$215,110.47, for a total of \$705,010.47.

II.

IT IS FURTHER HEREBY ORDERED, ADJUDGED, AND DECREED

THAT Defendant Raabe is liable for a Civil Money Penalty in the amount of \$110,000 pursuant to Section 20(d)(2) of the Securities Act [15 U.S.C. § 77t(d)(2)] and Section 21(d)(3)(B) of the Exchange Act [15 U.S.C. § 78u(d)(3)(B)].

III.

IT IS FURTHER HEREBY ORDERED, ADJUDGED, AND DECREED

THAT Defendant Raabe shall satisfy his disgorgement, prejudgment interest, and civil money penalty obligations set forth in Sections I and II of this Final Judgment by paying \$203,752.62 within ten business days following the entry of this Final Judgment, and in three quarterly equal payments of \$203,752.62 plus post-judgment interest of \$8,150.07 on March 31, 2007, \$203,752.62 plus post-judgment interest of \$5,433.38 on June 30, 2007, and \$203,752.62 plus post-judgment interest of \$2,716.69 on September 30, 2007. Said payments shall be made to the Clerk of this Court, together with a cover letter identifying Defendant Raabe 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 Order and Final Judgment. Defendant Raabe 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 Raabe. The Clerk shall deposit the funds into an interest bearing account with the Court Registry Investment System ("CRIS") or any other type of interest bearing account that is utilized by the Court. These funds, together with any interest and income earned thereon (collectively, the "Fund"), shall be held in the interest bearing account until further order of the Court. In accordance with 28 U.S.C. § 1914 and the guidelines set by the Director of the Administrative Office of the United States Courts, the Clerk is directed, without further order of this Court, to deduct from the income earned on the money in the Fund a fee equal to ten percent of the income earned on the Fund. Such fee shall not exceed that authorized by the Judicial Conference of the United States. If Defendant Raabe fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Final Judgment, including post-judgment interest, minus any payments made, shall become due and payable immediately without further application to the Court. Defendant Raabe shall pay additional post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961 for the period of delinquency starting with the first date of default.

IV.

The Commission may by motion propose a plan to distribute the Fund subject to the Court's approval. Such a plan may provide that Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002.

Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendant Raabe shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Defendant Raabe's payment of disgorgement in this action, argue that he is entitled to, nor shall he further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Defendant Raabe's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Defendant Raabe shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this Judgment. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Defendant Raabe by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

V.

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 Defendant Raabe shall comply with all of the undertakings and agreements set forth therein.

VI.

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.

VII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that 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.

SO ORDERED.

12.13 2006



UNITED STATES DISTRICT JUDGE