

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
ENTERED

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

SEP 26 2001

Michael N. Milby, Clerk of Court

SECURITIES AND EXCHANGE COMMISSION,

PLAINTIFF,

v.

MOUNTAIN ENERGY, INC., DONALD JOHN CHRISTENSEN, II,  
JACK E. USELTON, MARC R. TOW, GEORGE W. GUTTMAN,  
AND JOSEPH M. BLUMENTHAL,

DEFENDANTS.

Civil No.

01-3203

AGREED FINAL  
JUDGMENT AS TO  
JOSEPH M. BLUMENTHAL

This is an agreed final judgment based upon the Consent of Joseph M.  
Blumenthal ("Blumenthal").

Plaintiff U.S. Securities and Exchange Commission ("SEC"), having filed against  
defendant Blumenthal a Complaint for Permanent Injunction and Other Relief (the  
"Complaint") in this action; Blumenthal, having waived service upon him of the  
Summons and Complaint and admitted the jurisdiction of this Court over him and over  
the subject matter of this action; having been fully advised and informed of his right to a  
judicial determination of this matter; having waived findings of fact and conclusions of  
law as provided by Rule 52 of the Federal Rules of Civil Procedure; having consented to  
the entry of this Agreed Final Judgment as to Joseph M. Blumenthal ("Final Judgment"),  
without admitting or denying any of the allegations in the Complaint except as set forth

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in his Consent; no notice of hearing upon the entry of this Final Judgment being necessary; and the Court being fully advised in the premises:

**I.**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant Joseph M. Blumenthal and his officers, agents, servants, employees, attorneys-in-fact, and those persons in active concert or participation with him who receive actual notice of this order by personal service or otherwise, are permanently enjoined from violating Sections 5(a) and 5(c) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§77e(a) and 77e(c)] by

(a) directly or indirectly, unless a registration statement is in effect as to a security;

(1) 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; or

(2) carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or

(b) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of



the registration statement) any public proceeding of examination under Section 8 of the Securities Act.

## **II.**

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Joseph M. Blumenthal is liable for disgorgement of \$350,000, representing profits gained as a result of the conduct alleged in the Complaint. Defendant shall satisfy this obligation by paying \$350,000 within 10 business days of the entry of this Final Judgment to the Clerk of this Court, together with a letter specifying that payment is made pursuant to this Final Judgment. Defendant shall simultaneously transmit photocopies of such payment and letter to the SEC's counsel in this action. The Clerk shall hold these funds in the Registry, in an interest-bearing account, pending further order. 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.

## **III.**


IT IS FURTHER ORDERED that the provisions of the Consent filed concurrently with this Final Judgment are incorporated herein with the same force and effect as if fully set forth herein and that Blumenthal shall comply with his Consent.

## **IV.**

IT IS FURTHER ORDERED that the Court shall retain jurisdiction of this action for all purposes, including implementation and enforcement of this Final Judgment.

There being no just reason 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.

SO ORDERED, this 24<sup>th</sup> day of September, 2001.

  
United States District Judge