

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

UNITED STATES
SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

RICHARD M. EISENMENGER and,
LEROY K. MESSENGER,

Defendants.

NO. 01 C 7506

Judge Grady

DOCKETED

OCT 10 2001

**FINAL JUDGMENT AND ORDER OF PERMANENT INJUNCTION AND
OTHER RELIEF AS TO DEFENDANT LEROY K. MESSENGER**

Defendant LeRoy K. Messenger ("Messenger") having (i) entered a general appearance; (ii) consented to the Court's jurisdiction over Defendant and the subject matter of this action; (iii) without admitting or denying the allegations of the Complaint, except as to jurisdiction, which is admitted, consented to entry of this Final Judgment and Order of Permanent Injunction and Other Relief ("Final Judgment") without further notice; (iv) waived findings of fact and conclusions of law; and (v) waived any right to appeal from this Judgment, it is now

ORDERED that Messenger, and Messenger's agents, servants, employees and attorneys, and those persons in active concert or participation with him who receive actual notice of this Judgment, are permanently restrained and enjoined from: (a) violating **Section 17(a) (1), (2) or (3) of the Securities Act of 1933** (15 U.S.C. §§77q(a)(1), (2), or (3)) by, in the offer or sale of any securities by the use of any means or instruments of transportation or communication in interstate commerce or

by the use of the mails, directly or indirectly, (1) employing any device, scheme or artifice to defraud, (2) obtaining money or property by means of any untrue statement of a material fact or any omission 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 (3) engaging in any transaction, practice or course of business which operates or would operate as a fraud or deceit upon any purchaser; and (b) violating **Section 10(b) of the Securities Exchange Act of 1934** (15 U.S.C. §78j(b)) and **Rule 10b-5** thereunder (17 C.F.R. §240.10b-5), directly or indirectly, as principals or aiders and abettors, by the use of 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, (1) employing any device, scheme or artifice to defraud, (2) making any untrue statement of a material fact or omitting 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 (3) engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person;

ORDERED that Messenger is liable for disgorgement of \$2,711,000 representing indirect benefits gained as a result of the conduct alleged in the Complaint plus prejudgment interest. Based on Messenger's demonstrated inability to pay, as shown by a sworn financial statement furnished to plaintiff United States Securities and Exchange Commission ("Commission"), payment of this disgorgement obligation is waived. However, if it shall appear that such financial statement was false or incomplete in any material respect when made, Messenger shall, on application by the Commission, be ordered to pay the full amount of disgorgement specified above plus appropriate prejudgment interest;

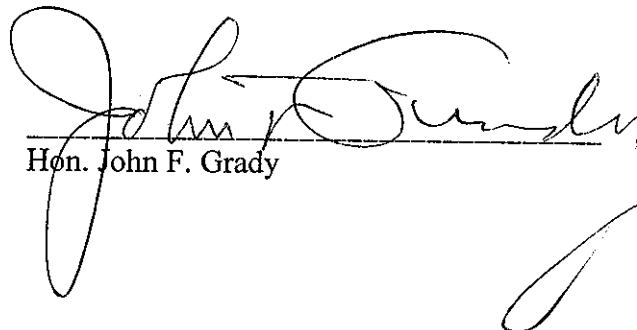
Based on Messenger's sworn representations in his financial statement furnished to the Commission, the Court is not ordering Messenger to pay a civil penalty pursuant to Section 20(d) of the Securities Act of 1933 (15 U.S.C. §77t(d)) and Section 21(d)(3) of the Securities Exchange Act of 1934 (15 U.S.C. §78u(d)(3)). The determination not to impose a civil penalty is contingent upon the accuracy and completeness of Messenger's sworn representations to the Commission concerning his assets, income, liabilities and net worth. It is, however, ordered that if it shall appear at any time that such financial statement was false or incomplete in any material respect when made, Messenger shall, on application by the Commission, be ordered to pay a penalty in an amount to be set by the Court;

ORDERED that the Consent of Defendant LeRoy K. Messenger is incorporated herein with the same force and effect as if fully set out herein and that Messenger shall comply with his Consent; and

ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

There being no just reason for delay, pursuant to Fed. R. Civ. P. 54(b), the Clerk is ordered to enter this Judgment forthwith and without further notice.

Dated: Oct 05, 2001


Hon. John F. Grady