

C/m

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff,**

**vs.**

**AMERICA IN LINE CORPORATION, AMERICA  
IN LINE OF MOUNT SINAI CORP., and  
PETER RICCARDO,**

**Defendants.**

**02 Civ. 4362 (LDW) (ETB)**

**FINAL CONSENT JUDGMENT  
AS TO DEFENDANT PETER RICCARDO**

Plaintiff Securities and Exchange Commission ("Commission"), having commenced this action by filing a Complaint ("Complaint") on August 6, 2002, charging Peter Riccardo ("Riccardo") with violations of Sections 5(a) and 5(c) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77e(a), 77e(c)], Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)], and Rule 10b-5 [17 C.F.R. § 240.10b-5]; and Riccardo, having accepted service of the summons issued to him and the Complaint, having admitted to the jurisdiction of this Court over him and over the subject matter of this action, having waived the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, and, without admitting or denying the allegations contained in the Commission's Complaint (except as to jurisdiction, which is admitted), having executed the attached Consent of Defendant Peter Riccardo

**MOVANT'S COUNSEL IS DIRECTED TO SERVE A COPY  
OF THIS ORDER ON ALL PARTIES UPON RECEIPT.**

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OF THIS ORDER ON ALL PARTIES UPON RECEIPT.**

("Consent") incorporated herein, and having consented to the entry of this Final Consent Judgment As To Defendant Peter Riccardo ("Final Judgment") without further notice:

**I.**

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Riccardo and Riccardo's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently enjoined and restrained from violating Section 5 of the Securities Act [15 U.S.C. §§ 77e], 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 instrument 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 commerce by any means or instrument of transportation any such security for the purpose of sale or for delivery after sale; or
- (c) 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 or examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

**II.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Riccardo and Riccardo's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently enjoined and restrained from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] in the offer or sale of any security, by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading;  
or
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser.

**III.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Riccardo and Riccardo's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Exchange Act [15 U.S.C. §§ 78j(b)] and Rule 10b-5 [17 C.F.R. §§ 240.10b-5] promulgated thereunder 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 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
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

**IV.**

**IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED** that Riccardo is permanently barred from participating in an offering of penny stock, including engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of any penny stock. A penny stock is any equity security that has a price of less than five dollars, except as provided in Rule 3a51-1 under the Exchange Act [17 C.F.R. 240.3a51-1].

**V.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)] and Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], Riccardo is prohibited from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

**VI.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Riccardo shall pay a civil penalty in the amount of \$50,000 pursuant to Section 20(d) of the Securities Act [15 U.S.C § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C § 78u(d)]. Riccardo shall satisfy this obligation by making payments in the following manner:

- First payment of \$20,000 within ten days of the entry of this Final Judgment;
- Second payment of \$10,000 within 90 days of the entry of this Final Judgment;
- Third payment of \$10,000 shall be made within 180 days of the entry of this Final Judgment; and
- Fourth payment of \$10,000 shall be made within 360 days of the entry of this Final Judgment.

(A) In the event that Riccardo defaults on any of the payments required by this paragraph, at any time thereafter, the Commission, in its sole discretion, may declare the outstanding balance due and payable within ten days. On the date of such declaration, Riccardo shall consent to the entry of a Default Judgment noting his default and ordering the payment of the then outstanding balance and post-judgment interest thereon, plus costs and reasonable attorney's fees incurred in entering and collecting the Default Judgment.

(B) Riccardo may prepay the outstanding balance at any time without penalty, and if such prepayment is made post-judgment interest owed will be calculated accordingly.

Each of the foregoing payments shall be by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. The

payment shall be delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be accompanied by a letter identifying Peter Riccardo 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 Final Judgment. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury. Riccardo shall simultaneously transmit photocopies of such payment and letter to the David Stöelting, Senior Trial Counsel, Securities and Exchange Commission, 3 World Financial Center, Room 400, New York, NY 10281. Riccardo relinquishes all legal and equitable right, title, and interest in such payments, and no part of the payments shall be returned to Riccardo.

**VII.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, pursuant to Rule 65(d) of the Federal Rules of Civil Procedure, this Final Judgment shall be binding upon Riccardo, his agents, servants, employees and attorneys, and upon those persons in active concert or participation with him who receive notice of this Final Judgment by personal service or otherwise.

**VIII.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the provisions of the annexed Consent be, and the same hereby are, incorporated in this Final Judgment with the same force and effect as if fully set forth herein.

**IX.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that this Court shall retain jurisdiction of this matter for all purposes, including, but not limited to, implementing and enforcing the terms and conditions of this Final Judgment, and that the entry of this Final Judgment shall not affect the discovery obligations of Riccardo or any other party pursuant to this Court's Orders and the Federal Rules of Civil Procedure.

**X.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, there being no just reason for delay, the Clerk of this Court is hereby directed to enter this Final Judgment forthwith pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

**CONSENT OF DEFENDANT PETER RICCARDO**

1. Peter Riccardo ("Riccardo") acknowledges having been served with the Complaint in this action, enters a general appearance, and admits the Court's jurisdiction over Riccardo and over the subject matter of this action.

2. Without admitting or denying the allegations of the Complaint (except as to personal and subject matter jurisdiction, which Riccardo admits), Riccardo hereby consents to the entry of the attached Final Consent Judgment As To Defendant Peter Riccardo (the "Final Judgment") and incorporated by reference herein, which, among other things:

- (a) permanently restrains and enjoins Riccardo from violations of Section 5 of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77e], Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] and Sections 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5];
- (b) orders that, pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)] and Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], Riccardo is prohibited from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)];
- (c) permanently bars Riccardo from participating in an offering of penny stock, including engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of any penny stock. A penny stock is any equity security



that has a price of less than five dollars, except as provided in Rule 3a51-1 under the Exchange Act [17 C.F.R. 240.3a51-1]; and

- (d) orders Riccardo to pay a civil penalty in the amount of \$50,000 pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C § 78u(d)].

3. Riccardo acknowledges that any civil penalty paid pursuant to the Final Judgment shall be treated as a penalty paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Riccardo agrees that he shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Riccardo's payment, 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 Riccardo's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Riccardo agrees that he 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. 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 action. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Riccardo by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

4. Riccardo agrees that he shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil penalty amounts that Riccardo pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. Riccardo further

agrees that he shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts that Riccardo pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

5. Riccardo waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

6. Riccardo waives the right, if any, to a jury trial and to appeal from the entry of the Final Judgment.

7. Riccardo enters into this Consent voluntarily and represents that no threats, offers, promises, or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce Riccardo to enter into this Consent.

8. Riccardo agrees that this Consent shall be incorporated into the Final Judgment with the same force and effect as if fully set forth therein.

9. Riccardo will not oppose the enforcement of the Final Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

10. Riccardo waives service of the Final Judgment and agrees that entry of the Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to Riccardo of its terms and conditions. Riccardo further agrees to provide counsel for the Commission, within thirty days after the Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Riccardo has received and read a copy of the Final Judgment.

11. Consistent with 17 C.F.R. 202.5(f), this Consent resolves only the claims asserted against Riccardo in this civil proceeding. Riccardo acknowledges that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Riccardo waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Riccardo further acknowledges that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this action, Riccardo understands that he shall not be permitted to contest the factual allegations of the complaint in this action.

12. Riccardo understands and agrees to comply with the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegation in the complaint or order for proceedings." 17 C.F.R. § 202.5. In compliance with this policy, Riccardo agrees: (i) not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis; and (ii) that upon the filing of this Consent, Riccardo hereby withdraws any papers filed in this action to the extent that they

deny any allegation in the complaint. If Riccardo breaches this agreement, the Commission may petition the Court to vacate the Judgment and restore this action to its active docket. Nothing in this paragraph affects Riccardo's: testimonial obligations; or right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.


13. Riccardo hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorney's fees or other fees, expenses, or costs expended by Riccardo to defend against this action. For these purposes, Riccardo agrees that Riccardo is not the prevailing party in this action since the parties have reached a good faith settlement.

14. In connection with this action and any related judicial or administrative proceeding or investigation commenced by the Commission or to which the Commission is a party, Riccardo (i) agrees to appear and be interviewed by Commission staff at such times and places as the staff requests upon reasonable notice; (ii) will accept service by mail or facsimile transmission of notices or subpoenas issued by the Commission for documents or testimony at depositions, hearings, or trials, or in connection with any related investigation by Commission staff; (iii) appoints Riccardo as agent to receive service of such notices and subpoenas; (iv) with respect to such notices and subpoenas, waives the territorial limits on service contained in Rule 45 of the Federal Rules of Civil Procedure and any applicable local rules, provided that the party requesting the testimony reimburses Riccardo's travel, lodging, and subsistence expenses at the then-prevailing U.S. Government per diem rates; and (v) consents to personal jurisdiction over Riccardo in any United States District Court for purposes of enforcing any such subpoena.



15. Riccardo agrees that the Commission may present the Final Judgment to the Court for signature and entry without further notice.

16. Riccardo agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Judgment.

Dated: October 26<sup>th</sup>, 2007

  
Peter Riccardo

On October 26<sup>th</sup>, 2007, Peter Riccardo, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.

  
Notary Public  
Commission expires  
 JODY J. YETTI  
Notary Public, State of New York  
No. 01YE4829359  
Qualified in Suffolk County  
Commission Expires March 30, 20

  
UNITED STATES DISTRICT JUDGE

*Level 10, NY*  
*2/27/08*