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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 SECURITIES AND EXCHANGE COMMISSION,

13 Plaintiff,

14 vs.

15 KENNETH W. MELLERT and ROMAN D.
16 MAYER,

17 Defendants.

Case No.

[PROPOSED] FINAL JUDGMENT OF
PERMANENT INJUNCTION AND OTHER
RELIEF AGAINST ROMAN D. MAYER

18 The Securities and Exchange Commission ("Commission") having filed a Complaint and Defendant
19 Roman D. Mayer ("Defendant") having entered a general appearance, consented to the Court's jurisdiction
20 over Defendant and the subject matter of this action, consented to entry of this Judgment without admitting or
21 denying the allegations of the Complaint (except as to jurisdiction), waived findings of fact and conclusions of
22 law, and waived any right to appeal from this Final Judgment:

23 I.

24 IT IS ORDERED, ADJUDGED AND DECREED that Defendant is permanently restrained and
25 enjoined from, directly or indirectly, violating Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and
26 Rule 10b-5 [17 C.F.R. §§ 240.10b-5] thereunder, by directly or indirectly, by use of means or
27 instrumentalities of interstate commerce, or of the mails, or of a facility of a national security exchange:
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- 1 (1) employing devices, schemes or artifices to defraud;
- 2 (2) making untrue statements of material fact or omitting to state material facts necessary in order to
- 3 make the statements made, in light of the circumstances under which they were made, not
- 4 misleading; or
- 5 (3) engaging in acts, practices or courses of business which operated or would operate as a fraud or
- 6 deceit upon other persons, in connection with the purchase or sale of securities.

7 II.

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant is liable for
9 disgorgement of \$159,091, representing profits gained as a result of the conduct alleged in the Complaint,
10 together with prejudgment interest thereon in the amount of \$2,148, for a total of \$161,239. Defendant shall
11 pay this sum within ten business days after entry of this Judgment to the Clerk of this Court, together with a
12 cover letter identifying Roman D. Mayer as a defendant in this action; setting forth the title and civil action
13 number of this action and the name of this Court; and specifying that payment is made pursuant to this
14 Judgment. Defendant shall simultaneously transmit photocopies of such payment and letter to the SEC's
15 counsel in this action. By making this payment, Defendant relinquishes all legal and equitable right, title, and
16 interest in such funds, and no part of the funds shall be returned to Defendant. The Clerk shall deposit the
17 funds into an interest bearing account with the Court Registry Investment System ("CRIS"). These funds,
18 together with any interest and income earned thereon (collectively, the "Fund"), shall be held by the CRIS
19 until further order of the Court. In accordance with the guidelines set by the Director of the Administrative
20 Office of the United States Courts, the Clerk is directed, without further order of this Court, to deduct from
21 the income earned on the money in the Fund a fee equal to ten percent of the income earned on the Fund.
22 Such fee shall not exceed that authorized by the Judicial Conference of the United States. The Commission
23 may propose a plan to distribute the Fund subject to the Court's approval.

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III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall pay a civil penalty in the amount of \$109,086 pursuant to the Insider Trading and Securities Fraud Enforcement Act (Section 21A of the Exchange Act). Defendant shall make this payment, plus postjudgment interest calculated in accordance with Rule 600 of the Commission's Rules of Practice from the date of entry of this Judgment, within twelve months after entry of this Judgment, according to the payment schedule attached as Exhibit A hereto. Defendant shall have the option of making early payment of some or all of the balance owed. Such payments shall be made by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. The payments 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 Roman D. Mayer 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 Judgment. Defendant shall simultaneously transmit photocopies of such payments and letters to the SEC's counsel in this action.

IV.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the provisions of the Consent of Roman D. Mayer to Entry of Final Judgment of Permanent Injunction and Other Relief (the "Consent") filed concurrently with this Judgment are incorporated by this reference, that Mayer shall comply with the Consent and that a breach of the terms of the Consent therefore shall constitute a failure to adhere to the terms of this Judgment.

V.

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 Judgment.

VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Judgment may be served upon Defendant in person or by mail either by the United States Marshall, the Clerk of the Court, or any member of the staff of the Commission.

VII.

There being no just reason for delay, the Clerk of the Court is directed, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, to enter this Judgment.

DATED: 2/13/03

/s/ Marilyn Hall Patel
United States District Court Judge

APPROVED AS TO FORM:

Robert K. Gordon
Troutman Sanders LLP
Counsel for Defendant Roman D. Mayer

Dated: _____

SUBMITTED BY:

Marc J. Fagel, Esq.
Counsel for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
44 Montgomery Street, Suite 1100
San Francisco, California 94104
Telephone: (415) 705-2500

Dated: _____

ATTACHMENT A

Defendant Roman D. Mayer Civil Penalty Payment Schedule

<u>Months After Entry Of Final Judgment</u>	<u>Civil Penalty</u>	<u>Postjudgment Interest</u>	<u>Total Payment</u>
1	\$9,091	\$164	\$9,255
2	\$9,091	\$150	\$9,241
3	\$9,091	\$136	\$9,227
4	\$9,091	\$123	\$9,214
5	\$9,091	\$109	\$9,200
6	\$9,091	\$95	\$9,186
7	\$9,091	\$82	\$9,173
8	\$9,091	\$68	\$9,159
9	\$9,091	\$55	\$9,146
10	\$9,091	\$41	\$9,132
11	\$9,091	\$27	\$9,118
12	\$9,085	\$14	\$9,1099
Total	\$109,086	\$1,064	\$110,150