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Filed

SEP 18 2003

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION

14 SECURITIES AND EXCHANGE COMMISSION,

15 Plaintiff,

16 vs.

17 CHRISTINE B. HOBERG,

18 Defendant.

Civil Action No. 03-04135 HRL

~~PROPOSED~~ FINAL JUDGMENT OF
PERMANENT INJUNCTION AND OTHER
RELIEF AGAINST DEFENDANT
CHRISTINE B. HOBERG

19 Plaintiff United States Securities and Exchange Commission ("Commission") has filed
20 its Complaint for Permanent Injunction and Legal and Other Equitable Relief ("Complaint") in this
21 action. Defendant Christine B. Hoberg ("Hoberg"), who was represented by her counsel, has
22 submitted a Consent of Christine Hoberg to Entry of Final Judgment ("Consent"), which was filed
23 simultaneously with this ~~Proposed~~ Final Judgment of Permanent Injunction and Other Relief
24 Against Defendant Christine Hoberg ("Final Judgment") and incorporated herein by reference. In the
25 Consent, Hoberg waived service of the Summons and the Complaint, admitted the jurisdiction of this
26 Court over her and over the subject matter of this action, admitted that she was fully advised and
27 informed of the right to a judicial determination of this matter, waived findings of fact and
28 conclusions of law as provided by Rule 52 of the Federal Rules of Civil Procedure, consented to the

~~XXXXXX~~ Final Judgment of Permanent Injunction
and Other Relief Against Christine B. Hoberg

entry of this Final Judgment, without admitting or denying any of the allegations in the Complaint except as set forth in the Consent, and waived notice of hearing upon the entry of this Final Judgment. The Court, being fully advised in the premises, orders as follows.

I.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Hoberg and her agents, servants, employees, those with powers of attorney on Hoberg's behalf, and all persons acting in concert or participation with any of them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each of them, are permanently enjoined and restrained from, directly or indirectly, violating 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] thereunder by:

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;

in connection with the purchase or sale of the securities of any issuer, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange.

II.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Hoberg and her agents, servants, employees, those with power of attorney on Hoberg's behalf, and all persons acting in concert or participation with any of them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each of them, are permanently enjoined and restrained from violating Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Rules 13b2-1 and 13b2-2 thereunder[17 C.F.R. §§240.13b2-1- 240.13b2-2] by knowingly circumventing or failing to

1 implement a system of internal accounting controls or knowingly falsifying any book, record, or
2 account described therein.

3 III.

4 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Hoberg is prohibited from serving
5 as an officer or director of any issuer of a security registered pursuant to Section 12 or 15(d) of the
6 Exchange Act for a period of five years from the date of Entry of this Final Judgment.
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8 IV.

9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Hoberg shall pay
10 disgorgement of \$494,332.84, together with prejudgment interest thereon in the amount of
11 \$102,362.15, for a total of \$596,694.99. Defendant will satisfy this obligation by paying \$596,694.99
12 within ten business days after entry and service of this Final Judgment to the Clerk of this Court,
13 together with a cover letter identifying Christine B. Hoberg as a defendant in this action; setting forth
14 the title and civil action number of this action and the name of this Court; and specifying that
15 payment is disgorgement made pursuant to this Final Judgment. Defendant shall simultaneously
16 transmit photocopies of such payment and letter to the attention of Helane Morrison, District
17 Administrator, at the Commission's San Francisco District Office, 44 Montgomery Street, Suite
18 1100, San Francisco, CA 94104. By making this payment, Defendant relinquishes all legal and
19 equitable right, title, and interest in such funds, and no part of the funds shall be returned to
20 Defendant. The Clerk shall deposit the funds into an interest bearing account with the Court Registry
21 Investment System ("CRIS"). These funds, together with any interest and income earned thereon
22 (collectively, the "Fund"), shall be held by the CRIS until further order of the Court. In accordance
23 with the guidelines set by the Director of the Administrative Office of the United States Courts, the
24 Clerk is directed, without further order of this Court, to deduct from the income earned on the money
25 in the Fund a fee equal to ten percent of the income earned on the Fund. Such fee shall not exceed
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that authorized by the Judicial Conference of the United States. 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.

V.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Hoberg shall pay a civil penalty in the amount of \$75,000.00 pursuant to the provisions of Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)]. Defendant shall make this payment within ten business days after entry and service of this Final Judgment to the Clerk of this Court, together with a cover letter identifying Christine B. Hoberg 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 a civil penalty made pursuant to this Final Judgment. Defendant shall simultaneously transmit photocopies of such payment and letter to the attention of Helane Morrison, District Administrator, at the Commission's San Francisco District Office, 44 Montgomery Street, Suite 1100, San Francisco, CA 94104. 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. The Clerk shall deposit the funds into an interest bearing account with the Court Registry Investment System ("CRIS"). These funds, together with any interest and income earned thereon (collectively, the "Fund"), shall be held by the CRIS until further order of the Court. In accordance with 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. 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

1 Section 308(a) of the Sarbanes-Oxley Act of 2002. Regardless of whether any such Fair Fund
2 distribution is made, amounts ordered to be paid as civil penalties pursuant to this Judgment shall be
3 treated as penalties paid to the government for all purposes, including all tax purposes. To preserve
4 the deterrent effect of the civil penalty, Defendant shall not, in any Related Investor Action, benefit
5 from any offset or reduction of any investor's claim by the amount of any Fair Fund distribution to
6 such investor in this action that is proportionately attributable to the civil penalty paid by Defendant
7 ("Penalty Offset"). If the court in any Related Investor Action grants such an offset or reduction,
8 Defendant shall, within 30 days after entry of a final order granting the offset or reduction, notify the
9 Commission's counsel in this action and pay the amount of the Penalty Offset to the United States
10 Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an
11 additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in
12 this Judgment. For purposes of this paragraph, a "Related Investor Action" means a private damages
13 action brought against Defendant by or on behalf of one or more investors based on substantially the
14 same facts as alleged in the Complaint in this action.
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17 VI.

18 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the provisions of
19 Hoberg's Consent filed concurrently with this Judgment are incorporated by this reference, that
20 Hoberg shall comply with the Consent and that a breach of the terms of the Consent therefore shall
21 constitute a failure to adhere to the terms of this Judgment.
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23 VII.

24 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain
25 jurisdiction over this action for all purposes, including to implement and enforce the terms of this
26 Judgment and other orders and decrees which may be entered, and to grant such other relief as this
27 Court may deem necessary and just.
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VIII.

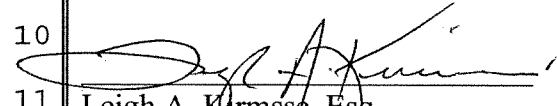
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Judgment may be served upon Hoberg, or her counsel, in person or by mail either by the United States Marshall, the Clerk of the Court, or any member of the staff of the Commission.

Dated: 9/18/03, 2003


United States District Court Judge
Magistrate

HOWARD R. LLOYD

APPROVED AS TO FORM:


Leigh A. Kirmsse, Esq.
Legal Strategies Group
5905 Christie Avenue
Emeryville, CA 94608-1925
510-450-9677
Counsel for Defendant Christine B. Hoberg

THIS IS TO CERTIFY THAT A COPY OF THIS ORDER WILL BE SENT TO:

Leigh Aimee Kirmsse LKirmsse@lsglaw.com

Patrick Thomas Murphy murphyp@sec.gov

*Counsel are responsible for distributing copies of this document to co-counsel who have not registered for E-Filing under the court's CM/ECF program.

Dated: 9/18/03

/s/ LLS
Chambers of Magistrate Judge Howard R. Lloyd