

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

JON A. DARMSTADTER,

Defendant.

CIVIL ACTION No. 03 C 4166

Judge James F. Holderman

Magistrate Judge Martin C.
Ashman

FINAL JUDGMENT AS TO DEFENDANT JON A. DARMSTADTER

The Securities and Exchange Commission having filed a Complaint and Defendant Jon A. Darmstadter (Defendant) having entered a general appearance; consented to the Court's jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant'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 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

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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 a material fact or any omission of 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 the purchaser.

II.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant'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 Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], 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 to omit 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.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant'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 Section 5 of the Securities Act [15 U.S.C. § 77e] by, 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 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;
- (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 instruments 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 with the Commission 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 [15 U.S.C. § 77h].

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], Defendant is prohibited, for five years following the date of entry of this Final Judgment,] 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)].

V.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall pay disgorgement of \$11,557, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$4,997, and a civil penalty in the amount of \$55,000 pursuant to Section 21(d)(3) of the Securities Act [15 U.S.C. §78(u)(d)(3)] for a total of \$71,554. Defendant shall satisfy this obligation through three separate payments by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. Post-judgment interest shall be calculated for these payments pursuant to 28 U.S.C. §1961. These 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 Jon A. Darmstadter 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. Copies of such checks and accompanying cover letters shall be simultaneously submitted to either Jeffrey Levine or Susan M. Weis, Division of Enforcement, Securities and Exchange Commission, Midwest Regional Office, 175 West Jackson Boulevard, Suite 900, Chicago, Illinois 60604. The Defendant shall pay the amount required under this Section as follows: within ten days of entry of this Final Judgment, Defendant or his escrow agent shall pay \$25,000; 90 days after the entry of this Final Judgment, Defendant shall pay \$25,000 plus post-judgment interest of \$210.07 for a total of \$25,210.07; 180 days after the entry of this Final Judgment Defendant shall pay \$21,554 plus post-judgment interest of \$97.26 for a total of \$21,651.26. If any payment is not made on or before the date it is due, the entire unpaid balance shall become immediately due and payable and enforceable by contempt proceedings.

VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

VII.

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 Final Judgment.

Dated: SEP 22 2004, _____



HONORABLE MAGISTRATE JUDGE
MARTIN ASHMAN