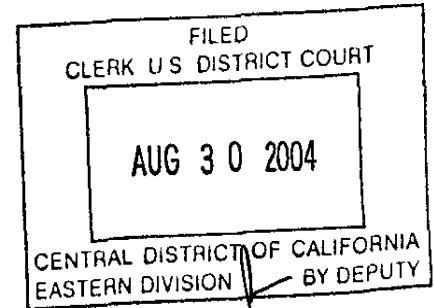


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

HELANE L MORRISON (State Bar No 127752)
MARC FAGEL (State Bar No 154425)
MICHAEL S DICKE (State Bar No 158187)
SHEILA E O'CALLAGHAN (State Bar No 131032)

Attorneys for Plaintiff
SECURITIES AND EXCHANGE
COMMISSION
44 Montgomery Street, Suite 1100
San Francisco, California 94104
Telephone (415) 705-2500

Priority
Send ☒
Enter ☒
Closed ☒
JS-5/JS-6 ☒
JS-2/JS-3 ☐
Scan Only ☐



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

Case No. EDCV04-1061

VAP
SGLx

Plaintiff,

VS

MOJAVE VALLEY RESORT, INC. and
MARK A TEMPLE

Defendants

[PROPOSED] FINAL JUDGMENT OF
PERMANENT INJUNCTION AND
LEGAL AND OTHER EQUITABLE
RELIEF AGAINST MARK A. TEMPLE

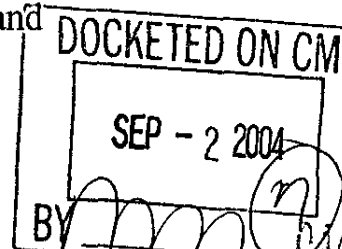
THIS CONSTITUTES NOTICE OF ENTRY
AS REQUIRED BY FRCP, RULE 77(d).

The Securities and Exchange Commission having filed a Complaint and Defendant Mark A Temple ("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 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

[PROPOSED] FINAL JUDGMENT AGAINST
MARK A TEMPLE



1 SEP - 2 2004

1
2 enjoined from violating, directly or indirectly, Section 10(b) of the Securities
3 Exchange Act of 1934 (the "Exchange Act") [15 U S C § 78j(b)] and Rule 10b-5
4 promulgated thereunder [17 C F R § 240 10b-5], by using any means or
5 instrumentality of interstate commerce, or of the mails, or of any facility of any
6 national securities exchange, in connection with the purchase or sale of any
7 security

- 8 (a) to employ any device, scheme, or artifice to defraud,
9 (b) to make any untrue statement of a material fact or to omit to state a
10 material fact necessary in order to make the statements made, in the light of
11 the circumstances under which they were made, not misleading, or
12 (c) to engage in any act, practice, or course of business which operates or
13 would operate as a fraud or deceit upon any person

14 II

15 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
16 that Defendant and Defendant's agents, servants, employees, attorneys, and all
17 persons in active concert or participation with them who receive actual notice of
18 this Final Judgment by personal service or otherwise are permanently restrained
19 and enjoined from violating Section 17(a) of the Securities Act of 1944 (the
20 "Securities Act") [15 U S C § 77q(a)] in the offer or sale of any security by the
21 use of any means or instruments of transportation or communication in interstate
22 commerce or by use of the mails, directly or indirectly

- 23 (a) to employ any device, scheme, or artifice to defraud,
24 (b) to obtain money or property by means of any untrue statement of a
25 material fact or any omission of a material fact necessary in order to make
26 the statements made, in light of the circumstances under which they were
27 made, not misleading, or
28

(c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser

III

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall be jointly and severally liable with defendant Mojave Valley Resort, Inc for disgorgement of \$1 00, representing profits gained as a result of the conduct alleged in the Complaint and a civil penalty in the amount of \$40,000 pursuant to Section 20(d) of the Securities Act [15 U S C §77t(d)] and Section 21(d)(3) of the Exchange Act [15 U S C. § 78u(d)(3)] Defendant shall satisfy this obligation by paying \$40,001 within ten business days to the Clerk of this Court, together with a cover letter identifying Mark Temple 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 Defendant shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action 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

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

22 IV

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

27 //

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 Final Judgment

Dated August 27, 2004

Virginia A. Phillips
UNITED STATES DISTRICT JUDGE