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RICHARD W. WIEKING
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NORTHERN DISTRICT OF CALIFORNIA

1 HELANE L. MORRISON (Cal. Bar No. 127752)
MARC J. FAGEL (Cal. Bar No. 154425)
2 MICHAEL S. DICKE (Cal. Bar No. 158187)
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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

WDB

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12 SECURITIES AND EXCHANGE COMMISSION,

13 Plaintiff,

14 vs.

15 JOHN PATRUCCO,

16 Defendant.

Case No. **04-3515**

~~PROPOSED~~ FINAL JUDGMENT

17
18 The Securities and Exchange Commission having filed a Complaint and Defendant
19 John Patrucco ("Defendant") having entered a general appearance; consented to the Court's
20 jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final
21 Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction);
22 waived findings of fact and conclusions of law; and waived any right to appeal from this Final
23 Judgment:

24 I.

25 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and
26 Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation
27 with them who receive actual notice of this Final Judgment by personal service or otherwise are
28 permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the

[PROPOSED] FINAL JUDGMENT

1 Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5
2 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate
3 commerce, or of the mails, or of any facility of any national securities exchange, in connection with
4 the purchase or sale of any security:

5 (a) to employ any device, scheme, or artifice to defraud;

6 (b) to make any untrue statement of a material fact or to omit to state a material
7 fact necessary in order to make the statements made, in the light of the circumstances under which
8 they were made, not misleading; or

9 (c) to engage in any act, practice, or course of business which operates or would
10 operate as a fraud or deceit upon any person.

11 II.

12 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that

13 Defendant is liable for disgorgement of \$8,000, representing profits gained as a result of the conduct
14 alleged in the Complaint, together with prejudgment interest thereon in the amount of \$366.38, for a
15 total of \$8,366.38. Defendant shall make payment of \$8,366.38 within thirty (30) business days after
16 entry of this Final Judgment by certified check, bank cashier's check, or United States postal money
17 order payable to the Securities and Exchange Commission. The payment shall be delivered or mailed
18 to the Office of Financial Management, Securities and Exchange Commission, Operations Center,
19 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be accompanied by a
20 letter identifying John Patrucco as a defendant in this action; setting forth the title and civil action
21 number of this action and the name of this Court; and specifying that payment is made pursuant to
22 this Final Judgment. Copies of each of the cover letters shall be simultaneously transmitted to the
23 attention of Helane Morrison, District Administrator, at the Commission's San Francisco District
24 Office, 44 Montgomery Street, Suite 1100, San Francisco, CA 94104.

25 III.

26 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall
27 pay a civil penalty in the amount of \$12,000 pursuant to Section 21A(a)(1)(A) of the Exchange Act
28 [15 U.S.C. § 78u-1(a)(1)(A)]. Defendant shall make this payment within thirty (30) business days

1 after entry of this Final Judgment by certified check, bank cashier's check, or United States postal
2 money order payable to the Securities and Exchange Commission. The payment shall be delivered or
3 mailed to the Office of Financial Management, Securities and Exchange Commission, Operations
4 Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be
5 accompanied by a letter identifying John Patrucco as a defendant in this action; setting forth the title
6 and civil action number of this action and the name of this Court; and specifying that payment is
7 made pursuant to this Final Judgment. Copies of each of the cover letters shall be simultaneously
8 transmitted to the attention of Helane Morrison, District Administrator, at the Commission's San
9 Francisco District Office, 44 Montgomery Street, Suite 1100, San Francisco, CA 94104.

10 IV.

11 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent of
12 Defendant John Patrucco to Entry of Final Judgment, filed concurrently with this Final Judgment, is
13 incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall
14 comply with all of the undertakings and agreements set forth therein.

15 V.

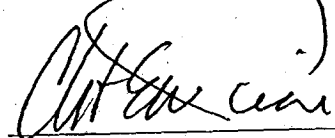
16 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall
17 retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

18 Dated: August 31, 2004
19 _____

/s/ Wayne D. Brazil

20 ~~DISTRICT~~ UNITED STATES DISTRICT JUDGE
21 MAGISTRATE

22 APPROVED AS TO FORM:

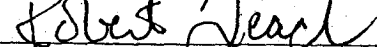
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24 _____

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1 SUBMITTED BY:

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9 SECURITIES AND EXCHANGE COMMISSION

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