

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS  
TOPEKA DIVISION**

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SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

Civil Action No. 04-04006 RDR

KINGS REAL ESTATE INVESTMENT TRUST,  
RELIANCE ENTERPRISES, L.L.C.,  
MONTE R. SWANZY,  
STEPHEN P. SWANZY,  
DAVID L. KNUDSON,  
VAN E. BRIGHTON, Individually, and  
d/b/a BRIGHTON FUNDING GROUP,

Defendants,

and

BRIGHTON ENTERPRISES, INC.,  
ROMERIAN TRUST and  
PATRICIA SWANZY,

Relief Defendants,

and

E. PAUL ANDERTON,

Intervenor.

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**FINAL JUDGMENT AS TO DEFENDANTS  
MONTE R. SWANZY AND STEPHEN P. SWANZY**

The Securities and Exchange Commission ("Commission") having filed a Complaint and Defendants Monte R. Swanzy and Stephen P. Swanzy (collectively "Defendants") having entered a general appearance; consented to the Court's jurisdiction 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 Defendants and their agents, servants, employees, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are restrained and enjoined from, directly or indirectly:

- (a) making use of the means or instruments of transportation or communication in interstate commerce or of the mails to sell any securities through the use or medium of any offering document or otherwise, unless and until a registration statement is in effect with the Commission as to such securities;
- (b) carrying any securities or causing them to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or delivery after sale, unless and until a registration statement is in effect with the Commission as to such securities; 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 to offer to buy, through the use or medium of any offering documents or otherwise, any securities, unless a registration statement has been filed with the Commission as to such securities, or while a registration statement filed with the Commission as to such securities 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]; provided, however, that nothing in this Part III of this Order shall apply to any security or transaction which is exempt from the provisions of Section 5 of the Securities Act [15 U.S.C. § 77e].

[Securities Act §§ 5(a) and 5(c) (15 U.S.C. §§ 77e(a) and 77e(c))].

## II.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendants and their 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 restrained and enjoined in the offer or sale of any securities by use of any means or instruments of transportation or communication in interstate commerce, or of the mails, from, directly or indirectly:

- (a) employing any device, scheme or artifice to defraud;
- (b) obtaining money or property by means of any untrue statement of a material fact or any omission to state 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) engaging in any transactions, practices or courses of business which operate or would operate as a fraud or deceit upon any purchaser or prospective purchaser.

[Securities Act § 17(a) (15 U.S.C. § 77q(a))].

### III.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendants and their 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 restrained and enjoined from making use of any means or instrumentalities of interstate commerce, or of the mails or of any facility of a national security exchange, directly or indirectly, 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 light of the circumstances under which they were made, not misleading;
- (c) to engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person; or
- (d) to use or employ manipulative or deceptive device or contrivance in contravention of a rule or regulation prescribed by the Securities and Exchange Commission.

[Exchange Act § 10(b) and Rule 10b-5 thereunder (15 U.S.C. § 78j(b) and 17 C.F.R. §

240.10b-5)].

#### IV.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendants are jointly and severally liable for disgorgement of \$441,500, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$32,617, for a total of \$474,117. Based on their respective sworn representations in each of Defendants' sworn Statement of Financial Condition and other documents and information submitted to the Commission, however, the Court is not ordering Defendants to pay civil penalties and payment of all of the disgorgement and pre-judgment interest thereon is waived. The determination not to impose a civil penalty and to waive payment of all of the disgorgement and pre-judgment interest is contingent upon the accuracy and completeness of each of Defendants' Statement of Financial Condition. If at any time following the entry of this Final Judgment the Commission obtains information indicating that Defendants' representations to the Commission concerning their assets, income, liabilities, or net worth were fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made, the Commission may, at its sole discretion and without prior notice to Defendants, petition the Court for an order requiring Defendants to pay the disgorgement, pre-judgment and post-judgment interest thereon, and the maximum civil penalty allowable under the law. In connection with any such petition, the only issue shall be whether the financial information provided by Defendants was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made. In its petition, the Commission may move this Court to

consider all available remedies, including, but not limited to, ordering Defendants to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of this Final Judgment. The Commission may also request additional discovery. Defendants may not, by way of defense to such petition: (1) challenge the validity of this Consent or the Final Judgment; (2) contest the allegations in the Complaint filed by the Commission; (3) assert that payment of disgorgement, pre-judgment and post-judgment interest or a civil penalty should not be ordered; (4) contest the amount of disgorgement and pre-judgment and post-judgment interest; (5) contest the imposition of the maximum civil penalty allowable under the law; or (6) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

**V.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that any order to pay disgorgement, prejudgment interest, or civil penalties is given preclusive effect in any bankruptcy case filed by or against Defendants. Solely for the purpose of such bankruptcy proceedings, such order establishes all the factual elements necessary to enable a court to make a finding that it is non-dischargeable pursuant to 11 U.S.C. §523(a)(4).

**VI.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Consents filed herein be, and the same is hereby, incorporated in this Final Judgment with the same force and effect as if fully set forth herein.

**VII.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that this Court shall

retain jurisdiction of this action for all purposes, including for purposes of entertaining any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court, including but not limited to the relief requested by the Commission in its Complaint in this action.

**VIII.**

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

**IX.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that, there being no just reason for delay, the Clerk of this Court is ordered and directed to enter this Final Judgment pursuant to Rule 54 of the Federal Rules of Civil Procedure.

DATED this 22<sup>nd</sup> day of December, 2004.

s/Richard D. Rogers  
United States District Judge

Agreed:

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TIMOTHY P. DAVIS  
Kansas Bar No. 18647  
Texas Bar No. 00798134

Attorney for Plaintiff  
U.S. Securities and Exchange Commission  
Burnett Plaza, Suite 1900  
801 Cherry Street, Unit #18  
Fort Worth, TX 76102-6882  
(817) 978-6438  
(817) 978-4927 (fax)  
E-Mail: [davistp@sec.gov](mailto:davistp@sec.gov)

Agreed as to form and content:

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Monte R. Swanzy  
*Pro se*

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Stephen P. Swanzy  
*Pro se*