

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

SECURITIES AND EXCHANGE	)	
COMMISSION,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 06-1029-CV-W-FJG
	)	
PAUL E. YARICK,	)	
	)	
Defendant.	)	

**ORDER**

**FINAL JUDGMENT AS TO DEFENDANT PAUL E. YARICK**

The Securities and Exchange Commission having filed a Complaint and Defendant Paul E. Yarick 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 Yarick and his 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.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Yarick and his 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 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)], and Rules 13b2-1 and 13b2-2 promulgated thereunder [17 C.F.R. §§ 240.13b2-1, 240.13b2-2], directly or indirectly, by:

- (a) knowingly circumventing or knowingly failing to implement a system of internal accounting controls;
- (b) knowingly falsifying a book, record, or account described in Section 13(b)(2) of the Exchange Act [15 U.S.C. §78m(b)(2)];
- (c) falsifying or causing to be falsified any book, record or account subject to Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. §78m(b)(2)(A)]; or
- (d) making or causing to be made a materially false or misleading statement, or by omitting to state, or causing another person to omit to state, any

material fact necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading, to an accountant in connection with:

- (1) any required audit, review or examination of the financial statements of an issuer; or
- (2) the preparation or filing of any document required to be filed with the Commission.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Yarick and his 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 Exchange Act Rule 13a-14 [17 C.F.R. § 240.13a-14], directly or indirectly, by:

- (a) certifying a periodic report containing financial statements filed by an issuer pursuant to Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] when he or she has failed to:
  - (1) review the report;
  - (2) ensure, to the best of his or her knowledge, that the report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by the report;
  - (3) ensure, to the best of his or her knowledge, that the financial statements, and other financial information included in the report,

fairly present in all material respects the financial condition, results of operations and cash flows of the issuer as of, and for, the periods presented in the report;

- (4) ensure that he or she has established and maintained disclosure controls and procedures, as defined in Exchange Act Rules 13a-15(e) and 15d-15(e) [17 C.F.R. § 240.13a-15(e) and 17 C.F.R. § 240.15d-15(e)], for the issuer and have:
- (i) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under his or her supervision, to ensure that material information relating to the issuer, including its consolidated subsidiaries, is made known to him or her by others within those entities, particularly during periods in which the periodic report is being prepared;
  - (ii) evaluated the effectiveness of the issuer's disclosure controls and procedures and presented in this report his or her conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by the report based on such evaluation; and
  - (iii) disclosed in the report any change in the issuer's internal control over financial reporting that occurred during the issuer's most recent fiscal quarter (the issuer's fourth quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the issuer's

internal control over financial reporting; and

- (5) ensure that he or she has disclosed, based on his or her most recent evaluation of internal control over financial reporting, to the issuer's board of directors (or persons performing the equivalent functions):
  - (i) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the issuer's ability to record, process, summarize and report financial information; and
  - (ii) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal controls over financial reporting; and
- (b) having a certification of disclosure, as specified in Exchange Act Rule 13a-14(a), (b) or (c) [17 C.F.R. § 240.13a-14(a), (b) or (c)], signed on his behalf pursuant to a power of attorney or other form of confirming authority.

#### IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Yarick and his 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 aiding and abetting any violation of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-

20, 13a-11 and 13 a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-11, and 240.13a-13] by knowingly providing substantial assistance to an issuer in its failure to:

- (a) file with the Commission
  - (1) such information and documents as the Commission shall require to keep reasonably current the information and documents required to be included in or filed with an application or registration statement filed pursuant to Section 12 of the Exchange Act [15 U.S.C. §78j], and
  - (2) such annual reports, certified if required by the rules and regulations of the Commission by independent public accountants, and such quarterly reports, as the Commission may prescribe;
- (b) add such further material information, if any, as may be necessary to make required statements, in the light of the circumstances under which they were made, not misleading, to that information expressly required to be included in a statement or report;
- (c) file in a timely fashion current reports, as required by Rule 13a-11 [17 C.F.R. §240.13a-11]; and
- (d) file in a timely fashion quarterly reports, as required by Rule 13a-13 [17 C.F.R. §240.13a-13].

V.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Yarick and his 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 aiding and abetting

any violation of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(b)(2)(A) and(B)] by knowingly providing substantial assistance to an issuer in its failure to:

- (a) make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer; and
- (b) devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that:
  - (1) transactions are recorded as necessary to permit the preparation of financial statements in accordance with GAAP;
  - (2) transactions are recorded as necessary:
    - (i) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements; and
    - (ii) to maintain accountability for assets;
  - (3) access to assets is permitted only in accordance with management's general or specific authorization; and
  - (4) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

VI.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], Yarick is prohibited for five (5) 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. § 78I] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

VII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall pay a civil penalty in the amount of \$50,000 pursuant to Exchange Act Section 21(d)(3). Within ten (10) business days after entry of this Final Judgment, Defendant's escrow agent shall make payment, from a pre-established escrow account, the amount of \$10,000.00 by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. Any excess funds in the escrow account shall be returned to Defendant by Defendant's escrow agent at the time of the \$10,000.00 payment. Within ninety (90) days after entry of this Final Judgment, Defendant shall make payment of the balance of the civil penalty, in the amount of \$40,000.00, by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. 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 Paul E. Yarick 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 pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961.

VIII.

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.

IX.

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.

Date: 1/11/07  
Kansas City, Missouri

**S/ FERNANDO J. GAITAN, JR.**  
Fernando J. Gaitan, Jr.  
United States District Judge