

FILED IN CHAMBERS
U.S.D.C. Atlanta

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

APR 27 2009

JAMES M. HATTEN, Clerk
By:  Deputy Clerk

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**FREDERICK J. BARTON, BARTON
ASSET MANAGEMENT, LLC and
TWINSPAN CAPITAL MANAGEMENT,
LLC,**

Defendants.

**Civil Action No.
1:08-CV-1917-RWS**

**DEFAULT JUDGMENT AS TO DEFENDANTS FREDERICK J.
BARTON, BARTON ASSET MANAGEMENT, LLC AND
TWINSPAN CAPITAL MANAGEMENT, LLC**

The Securities and Exchange Commission ("SEC" or "Commission") filed its Complaint against Defendants Frederick J. Barton ("Barton"), Barton Asset Management, LLC ("Barton Asset Management") and TwinSpan Capital Management, LLC ("TwinSpan") on June 3, 2008. The SEC, through a process server, served the defendant Barton Asset Management with the summons and complaint on June 19, 2008. Its answer or responsive pleading was due July 9, 2008. Service by publication was permitted by this Court as to defendant Barton, and he was effectively

served by publication. Barton's answer or responsive pleading was due October 20, 2008. The SEC served defendant TwinSpan, a Georgia corporation, by effecting service on the Georgia Secretary of State. TwinSpan's answer or responsive pleading was due on October 24, 2008. None of the defendants filed an answer or responsive pleading, and the SEC moved for entries of default. The Clerk granted the entries of default on September 19, 2008 (Barton Asset Management), October 23, 2008 (Barton), and October 24, 2008 (TwinSpan). The SEC has now moved the Court for a default judgment by default against Barton, Barton Asset Management and TwinSpan. The Court hereby grants the SEC's motion and has set forth relevant findings of fact and conclusions of law below, in addition to injunctive relief, and the imposition of disgorgement, prejudgment interest and civil penalties, as appropriate.

FINDINGS AND CONCLUSIONS

The Declaration of Mark Eric Harrison, provided by the Commission with the instant motion establishes that from the Commission's investigation, none of the defendants is an infant or an incompetent. Similarly, no defendant is a member of the military service of the United States. (Harrison Declaration, ¶1). Given the failure of the three defendants to answer or otherwise defend the allegations against them, the following

allegations of the SEC's Complaint are now deemed to be true, and are made the findings of this Court:

1) Findings of Fact

Between approximately May 1999 and December 2003, Barton, acting individually or through Barton Asset Management, fraudulently misappropriated almost the entire life savings of R.F. R.F. was a single, elderly customer of the broker-dealer employing Barton, who suffered from diminished mental capacity and Alzheimer's disease. Barton tricked R.F. into selling the securities in her brokerage account and providing him and Barton Asset Management with the proceeds of those sales. (Complaint, ¶ 2).

Later, between October 2004 and October 2005, Barton and TwinSpan, an investment adviser, engaged in a fraudulent private placement, ostensibly to raise funds to grow TwinSpan. Barton and TwinSpan raised \$1.515 million from ten investors, falsely representing to all of them in a private placement memorandum that the funds raised would only be used upon reaching a minimum offering amount and then, would only be used for TwinSpan's general corporate purposes. (Complaint, ¶ 3).

Despite these representations, Barton and TwinSpan diverted at least \$493,100 from the offering for Barton's own personal use. Additionally,

without disclosure to investors, Barton and TwinSpan used a substantial portion of the offering proceeds in advance of reaching the minimum offering amount in violation of the terms of the private placement. (Complaint, ¶ 4).

Finally, between October 2006 and January 2007, Barton and TwinSpan misappropriated \$685,000 from an investment advisory client of TwinSpan, J.C. First, acting through TwinSpan, Barton forged J.C.'s signature on four wire-transfer authorizations and used them to transfer \$185,000 of J.C.'s assets under TwinSpan's management to a bank account in the name of Barton Asset Management. These transfers were made without J.C.'s knowledge or approval. Shortly thereafter, Barton borrowed an additional \$500,000 from J.C., ostensibly to fund TwinSpan's business plan, without disclosing to her that he had previously misappropriated \$185,000 of her funds. (Complaint, ¶ 5).

Defendants Barton, Barton Asset Management and TwinSpan, by virtue of their conduct, directly or indirectly, have engaged in and, unless enjoined, will engage in violations of Section 17(a) of the Securities Act of 1933 ("Securities Act")[15 U.S.C. § 77q(a)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act")[15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], and Sections 206(1) and 206(2) of the

Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C §§ 80b-6(1) and 80b-6(2)]. (Complaint, ¶ 6).

Additionally, Defendants Barton and TwinSpan, by virtue of their conduct, directly or indirectly, have engaged in and, unless enjoined, will engage in violations of Rule 10b-9 under the Exchange Act [17 C.F.R. § 240.10b-5]. (Complaint, ¶ 7).

Frederick J. Barton, age 47, previously of Atlanta, Georgia, is the founder, principal control person, and, through Barton Asset Management, the majority owner of TwinSpan. From 1988 until 2002, Barton was employed by a large broker-dealer as a registered representative in that firm's Atlanta office. From 1994 through 2002, Barton also served as branch manager of the Atlanta branch office of the broker-dealer. Barton recently relocated to Baldwin, Missouri. (Complaint, ¶ 12).

Barton Asset Management, LLC, is a Georgia limited liability company founded by Barton in 2002. Barton is its sole member. (Complaint, ¶ 13).

TwinSpan Capital Management, LLC, is a Georgia limited liability company based in Atlanta, Georgia. TwinSpan was formed in 2003. Barton Asset Management (and, through it, Barton) owns the majority of TwinSpan. TwinSpan was registered with the SEC as an investment adviser from

September 2005 to June 2007. As of May 2007, TwinSpan had approximately 77 clients and \$8.5 million under management. (Complaint, ¶ 14).

2) Jurisdiction and Venue

The Court has jurisdiction over this matter. The Commission filed this action pursuant to authority conferred upon it by Sections 20(b), (c) and (d) of the Securities Act [15 U.S.C. §§ 77t(b)-(d)], Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. §§ 78u(d)-(e)] and Sections 209(d) and 209(e) of the Advisers Act [15 U.S.C. §§ 80b-9(d)-(e)] to enjoin the defendants from engaging in the transactions, acts, practices and courses of business alleged in this Complaint, and transactions, acts, practices and courses of business of similar purport and object, for disgorgement of illegally obtained funds and other equitable relief, and for civil money penalties.

This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d) and 77v(a)], Sections 21(d), 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e) and 78aa], and Section 214 of the Advisers Act [15 U.S.C. §80b-14].

The Defendants, directly and indirectly, have made use of the mails, the means and instrumentalities of transportation and communication in interstate commerce, and the means and instrumentalities of interstate commerce, in

connection with the transactions, acts, practices, and courses of business alleged in the Complaint.

Venue lies in this Court pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)], Section 27 of the Exchange Act [15 U.S.C. § 78aa], and Section 209 of the Advisers Act [15 U.S.C. § 80b-9], because certain of the transactions, acts, practices and courses of business constituting violations of the Securities Act, Exchange Act and Advisers Act occurred within the Northern District of Georgia.

3) Disgorgement, Prejudgment Interest And Civil Penalties

In support of its motion for default judgment, the SEC has provided the Court with the sworn Declaration of Mark Eric Harrison, pursuant to 28 U.S.C. §1746. Harrison is the SEC staff attorney who conducted the SEC's investigation in this matter. In his declaration, Harrison stated that he reviewed: (1) the sworn investigative testimony of Barton; (2) the investigative testimony of several other witnesses; (3) documents used in the course of investigative testimony; (4) documents produced by Barton and TwinSpan to the SEC's Office of Compliance Inspections and Examinations; (5) documents produced by counsel to R.F., a single, elderly customer of the broker-dealer ("the brokerage firm" or "the firm") that employed Barton, who suffered from diminished mental capacity and

Alzheimer's disease; (6) documents provided by the brokerage firm; (7) documents produced by the broker-dealer with custody of the TwinSpan account of J.C., an investment advisory client of TwinSpan; and (8) notes in connection with telephone interviews of J.C. (Harrison Declaration ¶ 3).

Harrison's Declaration also establishes that Barton, who was employed as a registered representative and branch manager for the brokerage firm and served as R.F.'s registered representative from 1995 until his termination from the firm in 2002, induced R.F. to sell securities in her account at the brokerage firm and give him the proceeds of those sales based on representations that he would somehow either transfer those proceeds into instruments offered by Mountain National Bank, a Georgia-based bank, or, in a few instances, place the proceeds in an advisory account at Barton Asset Management. However, Barton, by his own admission in testimony, admitted that he never invested the funds in instruments offered by Mountain National Bank or in a Barton Asset Management advisory account. (Harrison Declaration ¶ 4).

Further, the Harrison Declaration establishes that through a series of checks made payable to Barton, and payable to Barton Asset Management but which went ultimately to Barton, Barton essentially stole \$970,000 from the accounts of R.F., an Alzheimer's victim in the first scheme. The series

of checks made payable to Barton or his company extended from approximately May 1999 to approximately December 2002, and Barton used all of those funds for his own personal expenses. (Harrison Declaration ¶ 5-16). Barton is the only defendant who personally benefitted from the \$970,000 taken from R.F. in this scheme. Disgorgement against Barton in the amount of \$970,000, arising from this scheme is appropriate in this matter.

The second scheme involved a fraudulent offering of securities in a private placement to 10 investors conducted by Barton and TwinSpan, from late 2004 to late 2005. In that offering, the defendants fraudulently raised \$1.515 million. (Harrison Declaration ¶ 17-22). From that offering, Barton misappropriated at least \$493,100 without disclosure to investors which he also used for personal expenses, including , including using a portion of the diverted funds to make a payment of \$229,500 to R.F., after R.F.'s newly appointed attorney-in-fact discovered and confronted Barton about the earlier stock sales and cash transfers to him. The remainder of the offering was also used in manners contrary to the representations made to investors. From this scheme, disgorgement should be imposed in the amount of \$493,100 against Barton, and in the amount of \$1,021,900 against Barton and TwinSpan jointly and severally.

The third scheme conducted by Barton and TwinSpan involved the systematic fraudulent diversion of \$685,000 from the accounts of an advisory client, without the advisory client's knowledge. The funds were diverted through the use of fabricated wire-transfer authorizations and wired portions of the advisory client's assets at TwinSpan *to a bank account in the name of Barton Asset Management*. (Harrison Declaration ¶ 23-24). From this scheme, disgorgement should be \$685,000 against Barton and Barton Asset Management, jointly and severally.

As set forth in the Harrison Declaration, the declarant has caused prejudgment interest to be calculated on the various amounts from each of the three schemes, and for each of the three defendants. As to Scheme 1, the Harrison declaration establishes the prejudgment interest against Barton on \$970,000 calculated from the date of the last transfer of all of payments incident to that scheme in December 2002 through the filing of the motion. Prejudgment interest was calculated at the interest rate used by the Internal Revenue Service for unpaid balances (which changes quarterly, and for the relevant period herein ranged from a low of 4% annually to a high of 8% annually). During that period, the total prejudgment interest on \$970,000 disgorgement for Barton totals \$444,161.43, for a combined total of \$1,414,161.43. (Harrison Dec. ¶ 25, Exhibit U).

Scheme 2 requires two prejudgment interest calculations. As to the \$493,100 that Barton took and used for personal expenses, the prejudgment interest calculation for Barton was calculated at the interest rate used by the Internal Revenue Service for unpaid balances from November 1, 2005 (the date that Barton and TwinSpan deposited the last private placement investment) through the filing of the motion (which change quarterly, and for the relevant period herein ranged from a low of 5% annually to a high of 8% annually). During that period, the total prejudgment interest on \$493,100 disgorgement totals \$128,323.20, for a combined total of \$621,423.20. (Harrison Dec. ¶ 26, Exhibit V). The remaining disgorgement of \$1,021,900 arising from Scheme 2 is jointly and severally owed by Barton and TwinSpan, and the prejudgment interest on that amount was similarly calculated from November 1, 2005 (the date that Barton and TwinSpan deposited the last private place investment, through the date of the filing of this motion) through the filing of the SEC's motion. The prejudgment interest calculation for Barton and TwinSpan was also calculated at the interest rate used by the Internal Revenue Service for unpaid balances (which change quarterly, and for the relevant period herein ranged from a low of 5% annually to a high of 8% annually). During that period, the total prejudgment interest on \$1,021,900 disgorgement totals

\$265,936.86, for a combined total of \$1,287,836.86. (Harrison Dec. ¶ 27, Exhibit V).

As to the disgorgement amount of \$685,000 owed jointly and severally by Barton and Barton Asset Management arising from the Scheme 3 theft from the advisory client, the prejudgment interest was calculated from the date of the last transfer in January 2007 through the date of the filing of the SEC's motion. The prejudgment interest calculation for Barton and Barton Asset Management was calculated at the interest rate used by the Internal Revenue Service for unpaid balances (which change quarterly, and for the relevant period herein ranged from a low of 5% annually to a high of 8% annually). During that period, the total prejudgment on \$685,000 totals \$106,589.43, for a combined total of \$791,589.43. (Harrison Dec. ¶ 28, Exhibit W).

Section 20(d) of the Securities Act, Section 21(d)(3) of the Exchange Act, and Section 209(e) of the Advisers Act authorizes the Court to order civil penalties against any person who has violated those acts. Given the egregious conduct of Barton, Barton Asset Management and TwinSpan, the SEC seeks civil penalties against them pursuant to Section 20(d) of the Securities Act, Section 21(d)(3) of the Exchange Act and Section 209(e) of the Advisers Act. First tier penalties for any violation (arising from conduct

that as here, occurred after February 1, 2001) may be imposed up to the larger of \$6,500 for a natural person or \$60,000 for any other person, or the amount of ill-gotten gain. When the violation involves fraud, second tier penalties may be imposed up to \$60,000 for a natural person or \$300,000 for any other person, or the amount of the ill-gotten gain. A third tier civil penalty of up to the larger of \$120,000 for a natural person or \$600,000 for any other person, or the amount of ill-gotten gain may be imposed when any provision of the Securities Act or the Exchange Act is violated, if the violation involved fraud or deceit and the violation resulted in substantial losses or created a significant risk of substantial losses to other persons.¹

The Commission requests that the Court order the three defendants to pay a substantial statutory civil penalty in an amount determined by the Court, and points out that the defendants' violations clearly involved fraud and deceit and resulted in substantial losses to investors. This Court should impose statutory civil penalties against Barton, Barton Asset Management and TwinSpan based upon the repeated nature of their violations, and their integral activities in the transfers of funds and the use of investor funds

¹ Civil monetary penalties pursuant to the Securities Act and the Exchange Act are required to be adjusted for inflation. The three defendants' conduct herein occurred from 1999 through 2007, after the time that the adjustment became effective in early 2001. 17 C.F.R. 201.1001, Adjustment of civil monetary penalties - 1996. LEXSEE 66 FR 8761 at 8762. The amounts of civil monetary penalties applicable herein are, therefore, the amounts adjusted for inflation for the relevant time of the violations.

contrary to representations to the investors. Specifically, Barton personally and through the companies he controlled engaged in numerous schemes to defraud over an extended period of nearly a decade. He and his companies made numerous misrepresentations to brokerage and advisory clients and to investors in the offering fraud, and systematically sought to divert monies from all of the schemes to his personal benefit, and to pay for his personal expenses. The defendants' routinely concealed their theft by additional misrepresentations. Instead of using customer funds or investor funds as represented, Barton transferred those funds to himself. Substantial civil penalties are appropriate against the three defendants.

INJUNCTIVE AND OTHER RELIEF

I.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that defendants Barton, Barton Asset Management and TwinSpan and their agents, servants, employees and attorneys, and those persons in active concert or participation with them who receive actual notice of this Default Judgment, by personal service or otherwise, and each of them, be and hereby are permanently enjoined and restrained from violating, directly or indirectly, Section 17(a) of the Securities Act of 1933 ("Securities Act") [15

U.S.C. 77q(a)], by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, by:

1. employing any device, scheme or artifice to defraud;
2. 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 the light of the circumstances under which they were made, not misleading; or
3. engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser,

in the offer or sale of any security.

II.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants Barton, Barton Asset Management and TwinSpan and their agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Default 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 ORDERED, ADJUDGED, AND DECREED that defendants Barton and TwinSpan, and their agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Default 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-9 promulgated thereunder [17 C.F.R. § 240.10b-9], in connection with the purchase and sale

of securities described herein, by the use of the means and instrumentalities of interstate commerce and by use of the mails, directly and indirectly:
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.

IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants Barton, Barton Asset Management and TwinSpan, were at all relevant times “investment adviser[s]” within the meaning of Section 202(a)(11) of the Advisers Act [15 U.S.C. § 80b-2(a)(11)], and that that defendants Barton, Barton Asset Management and TwinSpan, and their agents, servants, employees, attorneys and those persons in active concert or participation with them, who receive actual notice of the

Default Judgment, by personal service, facsimile or otherwise, and each of them, by use of the mails or any means or instrumentality of interstate commerce, are permanently restrained from directly or indirectly: (a) while acting knowingly or recklessly, employing devices, schemes, or artifices to defraud any client or prospective client; or (b) engaging in transactions, practices, or courses of business which operate as fraud or deceit upon a client or prospective client, in violation of Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1),(2)].

V.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that disgorgement against defendants Barton and Barton Asset Management, and against Barton and TwinSpan is joint and several to the extent that funds were transferred from accounts in those entities' names and controlled by Barton, to other accounts controlled by Barton. Defendant Barton shall pay disgorgement in the amount \$3,170,000, of which \$1,021,900 is joint and several with Defendant TwinSpan, and \$685,000 is joint and several with Defendant Barton Asset Management. Total prejudgment interest on the disgorgement from the three schemes as set forth above for Defendant Barton totals \$945,110.92, of which \$265,936.86 is owed jointly and severally with TwinSpan, and \$106,589.43 is owed jointly and severally

with Barton Asset Management. Full disgorgement with prejudgment interest that is hereby ordered against Defendant Barton, totals \$4,115,010.80. Defendants Barton, Barton Asset Management and TwinSpan shall satisfy these individual and joint and several obligations by paying the respective total amounts within ten (10) ten business after the entry of this Default Judgment to the Clerk of this Court, together with a cover letter identifying by name the relevant paying 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 Default Judgment. The paying defendant shall simultaneously transmit photocopies of such payment and letter to the SEC's counsel in this action, Edward G. Sullivan, Esq. at Securities and Exchange Commission, 3475 Lenox Road, NE, Suite 1000, Atlanta, Georgia 30326. By making this payment, the paying defendant relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to the paying defendant or the paying relief defendant. The Clerk shall deposit the funds into an interest bearing account with the Court Registry Investment System ("CRIS") or any other type of interest bearing account that is utilized by the Court. These funds, together with any interest and income earned thereon (collectively, the "Fund"), shall be held in the interest bearing account until

further order of the Court. In accordance with 28 U.S.C. § 1914 and 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. The SEC may propose a plan to distribute the Fund subject to the Court's approval. Defendants shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961.

VI.

IT IS ORDERED, ADJUDGED, AND DECREED that Defendant Barton shall pay a civil penalty in the amount of \$ 120,000.00 pursuant to Section 20(d) of the Securities Act [15 U.S.C. 77t(d)], Sections 21(d)(3) and 21A of the Exchange Act [15 U.S.C. 78u(d)(3) and 78u-1] and Section 209(e) of the Advisers Act. Defendant Barton shall make this payment within ten (10) business days after entry of this Default Judgment by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. The payment 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 Barton 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 Default Judgment. Defendant Barton shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961.

VII.

IT IS ORDERED, ADJUDGED, AND DECREED that Defendant Barton Asset Management shall pay a civil penalty in the amount of \$ 60,000.00 pursuant to Section 20(d) of the Securities Act [15 U.S.C. 77t(d)], Sections 21(d)(3) and 21A of the Exchange Act [15 U.S.C. 78u(d)(3) and 78u-1] and Section 209(e) of the Advisers Act. Defendant Barton Asset Management shall make this payment within ten (10) business days after entry of this Default Judgment by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. The payment 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 Barton Asset Management 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 Default Judgment. Defendant Barton Asset Management shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961.

VIII.

IT IS ORDERED, ADJUDGED, AND DECREED that Defendant TwinSpan shall pay a civil penalty in the amount of \$ 60,000.00 pursuant to Section 20(d) of the Securities Act [15 U.S.C. 77t(d)], Sections 21(d)(3) and 21A of the Exchange Act [15 U.S.C. 78u(d)(3) and 78u-1] and Section 209(e) of the Advisers Act. Defendant TwinSpan shall make this payment within ten (10) business days after entry of this Default Judgment by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. The payment 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 TwinSpan 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 Default Judgment. Defendant

TwinSpan shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961.

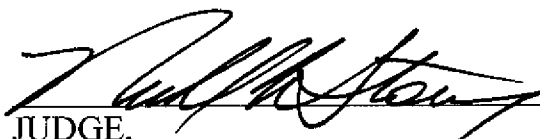
IX.

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 Default Judgment.

X.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, there being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Default Judgment forthwith and without further notice.

Dated: April 22, 2009.


JUDGE,
UNITED STATES DISTRICT COURT