

IT IS THEREFORE ORDERED:

1. Defendants and Defendants' agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise are permanently restrained and enjoined from violating Section 5 of the Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any applicable exemption:

- (a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;
- (b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; 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 offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

2. Defendants and Defendants' agents, servants, employees, attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order, by

personal service or otherwise, and each of them, be and hereby are restrained and enjoined from violating Section 17(a) of the Securities Act [15 U.S.C. §77q(a)], directly or indirectly, in the offer or sale of a security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails:

- (a) to employ any device, scheme or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any transaction, practice or course of business which operates or would operate as a fraud or deceit upon any purchaser.

3. Defendants and Defendants' agents, servants, employees, attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order, by personal service or otherwise, and each of them, be and hereby are restrained and enjoined from violating Section 10(b) of the Exchange Act and Rule 10b-5 [15 U.S.C. §78j(b) and [17 C.F. R. §240.10b-5], directly or 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.

4. Defendant 4309, Inc. and its agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise are permanently restrained and enjoined from directly or indirectly, violating Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1, and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13], by:

(1) failing to file with the Commission

(a) 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. § 78l], and

(b) such annual reports, certified if required by the rules and regulations of the Commission by independent public accounts, and such quarterly and current reports, as the Commission may prescribe;

(2) failing to add such further material, if any, as may be necessary to make required statements, in light of the circumstances under which they are made not misleading, to that information expressly required to be included in a statement or report; and

(3) failing to file in a timely fashion with the Commission annual and quarterly reports on the appropriate form authorized or prescribed by Commission rules 13a-1, and 13a-13 [17 C.F.R. §§ 240.13a-1 and 240.13a-13].

5. Defendant Poetter, his its agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal

service or otherwise are permanently restrained and enjoined from aiding and abetting violations of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1, and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13], by knowingly providing substantial assistance to an issuer by:

- (1) failing to file with the Commission
 - (a) 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. § 78l], and
 - (b) such annual reports, certified if required by the rules and regulations of the Commission by independent public accounts, and such quarterly and current reports, as the Commission may prescribe;

- (2) failing to add such further material, if any, as may be necessary to make required statements, in light of the circumstances under which they are made not misleading, to that information expressly required to be included in a statement or report; and

- (3) failing to file in a timely fashion with the Commission annual and quarterly reports on the appropriate form authorized or prescribed by Commission rules 13a-1, and 13a-13 [17 C.F.R. §§ 240.13a-1 and 240.13a-13].

6. Pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] and Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)], Defendant Poetter is permanently barred 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. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

7. **IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED** that Defendants and Relief Defendants are jointly and severally liable for disgorgement of \$5,205,209.35, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$17,350.70, for a total of \$5,222,560.05. The Commission may enforce the Court's judgment for disgorgement and prejudgment interest by moving for civil contempt (and/or through other collection procedures authorized by law) at any time after ten days following entry of this Final Judgment. In response to any such civil contempt motion by the Commission, the defendant may assert any legally permissible defense. Payments under this paragraph shall be made to the Court-appointed receiver, or in the event no receiver is appointed, to the Clerk of this Court, together with a cover letter identifying the Defendants and Relief Defendants as a defendants 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. By making this payment, Defendants and Relief Defendants relinquish all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Defendants and Relief Defendants. Defendants shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961.

8. **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Defendant Poetter shall pay a civil penalty in the amount of \$150,000 pursuant to Section 20(d)(2) of the Securities Act and Section 21(d)(3) of the Exchange Act. Defendant Poetter shall make this payment within ten (10) business days after entry of this Final 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 him 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. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

9. The terms of this Final Judgment shall remain in full force and effect in this proceeding unless further modified by the Court.

10. This Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

11. The Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendants and Relief Defendants shall comply with all of the undertakings and agreements set forth therein

12. 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 Final Judgment forthwith and without further notice.

It is so ORDERED.

SIGNED this 8th day of October, 2009.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE