

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA**

CASE NO. 1:09-0704-SEB-DML
~~**JMS**~~

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

**BERKSHIRE RESOURCES, L.L.C.,
BERKSHIRE (40L), L.L.P.,
BERKSHIRE 2006-5, L.L.P.,
PASSMORE-5, L.L.P.,
GUEYDAN CANAL 28-5, L.L.P.,
GULF COAST DEVELOPMENT #12, L.L.P.,
DRILLING DEEP IN THE LOUISIANA WATER, J.V.,
JASON T. ROSE,
DAVID G. ROSE,
MARK D. LONG,
YOLANDA C. ROSE.**

Defendants.

BRIAN C. ROSE AND JOYCE A. ROSE,

Relief Defendants.

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**FINAL JUDGMENT OF PERMANENT INJUNCTION AND
OTHER RELIEF AS TO DEFENDANT DAVID G. ROSE**

The Securities and Exchange Commission having filed a complaint, and Defendant David G. Rose having: entered a general appearance; consented to the Court's jurisdiction over him 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 personal and subject matter jurisdiction, which Rose admits); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

**VIOLATION OF SECTIONS 5(a) and (c)
OF THE SECURITIES ACT OF 1933**

IT IS ORDERED AND ADJUDGED that Rose 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 Sections 5(a) and (c) of the Securities Act of 1933 (the “Securities Act”), 15 U.S.C. § 77e(a) and (c), 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.

II.

**VIOLATION OF SECTION 17(a)
OF THE SECURITIES ACT OF 1933**

IT IS FURTHER ORDERED AND ADJUDGED that Rose and his agents, servants, employees, attorneys, representatives, 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 17(a) of the Securities Act, 15 U.S.C. § 77q(a), in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (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 the statements made, in 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 the purchaser.

III.

**SECTION 10(b) OF THE SECURITIES
EXCHANGE ACT OF 1934 AND EXCHANGE ACT RULE 10b-5**

IT IS FURTHER ORDERED AND ADJUDGED that Rose 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 ("Exchange Act"), 15 U.S.C. § 78j(b), and Exchange Act Rule 10b-5, 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.

IV.

VIOLATION OF SECTION 15(a) OF THE SECURITIES EXCHANGE ACT OF 1934

IT IS FURTHER ORDERED AND ADJUDGED that Rose and his agents, servants, employees, attorneys, representatives, 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 15(a) of the Exchange Act, 15 U.S.C. §§ 780(a), by using of any means or instrumentality of interstate commerce or of the mails, engaging in the business of effecting transactions in securities for the accounts of others or inducing or effecting the purchase and sale of securities while not themselves registered with the Commission in accordance with the provisions of Section 15(b) of the Exchange Act, or while not associated with a broker-dealer that was so registered, in violation of Section 15(a) of the Exchange Act, 15 U.S.C. § 78j(a).

V.

DISGORGEMENT, PREJUDGMENT INTEREST, AND CIVIL PENALTY

IT IS FURTHER ORDERED AND ADJUDGED that Rose is liable for disgorgement of \$15.4 million, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$205,846.67, for a total disgorgement obligation of \$15,605,846.67; and a civil penalty in the amount of \$130,000, pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d) of the Exchange Act, 15 U.S.C. § 78u(d). The total amount, \$15,735,846.67, shall be due and payable within ten days of entry of the Final Judgment. Payment shall be made 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 David G. Rose 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 the Final Judgment. Rose shall simultaneously transmit photocopies of such payment and letter to C. Ian Anderson, Esq., Securities and Exchange Commission, 801 Brickell Avenue, Suite 1800, Miami, FL 33131. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

Rose shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil penalty amounts that Rose pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. Rose further shall not claim, assert, or apply for a

tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts that Rose pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

VI.

INCORPORATION OF CONSENT

IT IS FURTHER ORDERED AND ADJUDGED that the Consent filed herewith is incorporated herein with the same force and effect as if fully set forth herein, and that Rose shall comply with all of the undertakings and agreements set forth therein.

VII.

RETENTION OF JURISDICTION

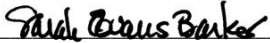
IT IS FURTHER ORDERED AND ADJUDGED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

VIII.

RULE 54(b) CERTIFICATION

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.

Dated: 09/02/2010



SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana