

UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO
Honorable Marcia S. Krieger

Case No. 09-cv-01114-MSK-KLM

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

WELLCO ENERGY, LLC,
JUSTIN WILLIAM RIFKIN,
PATRICK V. LOOPER,
RICHARD G. PACHECO, and
DUSTIN D. WHITE,

Defendants.

**PERMANENT INJUNCTION AND FINAL JUDGMENT AGAINST
RICHARD G. PACHECO**

THIS MATTER comes before the Court upon the Unopposed Motion for Entry of Permanent Injunction and Judgments Against Defendants Looper and Pacheco (#66). The Securities and Exchange Commission filed a Complaint in this matter on May 14, 2009. (#1) Defendant Pacheco was served with the summons and Complaint, entered a general appearance and consented to the Court's jurisdiction over him and the subject matter of this action. (#8, 16) The parties represent that Defendant Pacheco consents to entry of this Order of Permanent Injunction and Other Relief ("Order of Permanent Injunction") without admitting or denying the allegations of the Complaint, except as to jurisdiction which is admitted, that he has waived findings of fact and conclusions of law, and waived any right of appeal from this Order of Permanent Injunction and the final judgment.

Accordingly, it is hereby **ORDERED**:

1. That Defendant Richard G. Pacheco and his agents, servants, employees

and attorneys, and those persons in active concert or participation with him who receive actual notice of this Order of Permanent Injunction by personal service or otherwise, and each of them, are permanently enjoined and restrained from, directly or indirectly, 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 the use of the mails: (1) employing any device, scheme, or artifice to defraud; or (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 violation of Section 17(a) of the Securities Act of 1933 [15 U.S.C. §77q(a)].

2. That Defendant Richard G. Pacheco and his agents, servants, employees and attorneys, and those persons in active concert or participation with him who receive actual notice of this Order of Permanent Injunction by personal service or otherwise, and each of them, are permanently enjoined and restrained from, directly or indirectly, by the use of 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: (1) employing any device, scheme, or artifice to defraud; (2) making 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 (3) engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person in violation of Section 10(b) of the Securities Exchange Act of 1934 [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17

C.F.R. 240.10b-5].

3. That Defendant Richard G. Pacheco and his agents, servants, employees and attorneys, and those persons in active concert or participation with him who receive actual notice of this Order of Permanent Injunction by personal service or otherwise, and each of them, are permanently enjoined and restrained from, directly or indirectly, from violating Section 5 of the Securities Act [15 U.S.C. § 77e], 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 of examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

4. That Defendant Richard G. Pacheco and his agents, servants, employees and attorneys, and those persons in active concert or participation with him who receive actual notice of this Order of Permanent Injunction by personal service or otherwise, and each of them, are permanently enjoined and restrained from, directly or indirectly,

violating Section 15(a) of the Exchange Act [15 U.S.C. § 78o] by acting as a broker or dealer unless registered as provided by law.

5. That Defendant Richard G. Pacheco is liable for disgorgement of \$69,250 representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$1,944.44, for a total amount of \$71,194.44. Based on the sworn representations in the Statement of Financial Condition of Richard G. Pacheco dated June 15, 2009, and other documents and information submitted to the Commission, the Court is not ordering Defendant Richard G. Pacheco to pay a civil penalty, and payment of \$71,194.44 of the disgorgement and pre-judgment interest thereon is waived. Defendant Pacheco shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961. The determination not to impose a civil penalty and to waive payment of disgorgement and prejudgment interest is contingent upon the accuracy and completeness of Defendant's Statement of Financial Condition. If at any time following the entry of the final judgment the Commission obtains information indicating that Defendant's representations to the Commission concerning his 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 Defendant, petition the Court for an order requiring Defendant to pay the unpaid portion of 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 Defendant 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 Defendant to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of the final judgment. The Commission may also request additional discovery. Defendant may not, by way of defense to such petition: (1) challenge the validity of the Consent or this 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.

6. The Court shall retain jurisdiction of this matter for purposes of enforcing the permanent injunction and final judgment.

7. There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, final judgment is entered against Defendant Richard G. Pacheco.

Dated this 25th day of March, 2010

BY THE COURT:

A handwritten signature in black ink, reading "Marcia S. Krieger". The signature is written in a cursive style with a prominent dot over the 'i' in "Krieger".

Marcia S. Krieger
United States District Judge