

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

DANIEL SHOLOM FRISHBERG,

Defendant.

C.A. No. 4:11-cv-1097

**AGREED FINAL JUDGMENT AS TO DEFENDANT
DANIEL SHOLOM FRISHBERG**

The Securities and Exchange Commission having filed a Complaint, and Defendant Daniel Sholom Frishberg ("Defendant") 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 Agreed 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 Agreed Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and his agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Agreed Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, and from aiding and abetting violations

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of, Section 206 of the Investment Advisers Act of 1940 (the "Advisers Act") by [15 U.S.C. § 80b-6] by using the mails or any means or instrumentality of interstate commerce, directly or indirectly:

- (1) to employ any device, scheme, or artifice to defraud any client or prospective client; or
- (2) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

II.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant shall pay a civil penalty in the amount of \$65,000 pursuant to Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)]. Defendant shall satisfy this obligation by paying \$65,000 by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission according to the following schedule: \$10,000 by March 1, 2011, or within 10 days of the entry of this Agreed Final Judgment, whichever is later; \$13,000, plus post-judgment interest at the statutory rate pursuant to 28 U.S.C. § 1961, on or before July 1, 2011; \$14,000, plus post-judgment interest at the statutory rate pursuant to 28 U.S.C. § 1961, on or before October 1, 2011; \$14,000, plus post-judgment interest at the statutory rate pursuant to 28 U.S.C. § 1961, on or before January 1, 2012; and \$14,000, plus post-judgment interest at the statutory rate pursuant to 28 U.S.C. § 1961, on or before, March 1, 2012, or one-year from the date the Agreed Final Judgment was entered, whichever is first. The payments shall be made to the Clerk of this Court, together with a cover letter identifying Daniel Sholom Frishberg 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 Agreed Final Judgment. Defendant shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action. By making this payment, Defendant relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Defendant. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961. To preserve the deterrent effect of the civil penalty, Defendant shall not in any Related Investor Action argue that he is entitled to, nor shall he benefit by, offset or reduction of any compensatory damages award by the amount of any part of Defendant's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Defendant shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this Agreed Final Judgment. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Defendant by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

III.

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.

IV.

The Commission may by motion propose a plan to distribute the Fund subject to the Court's approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil penalties pursuant to this Agreed Final Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes.

V.

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.

VI.

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 Agreed Final Judgment.

VII.

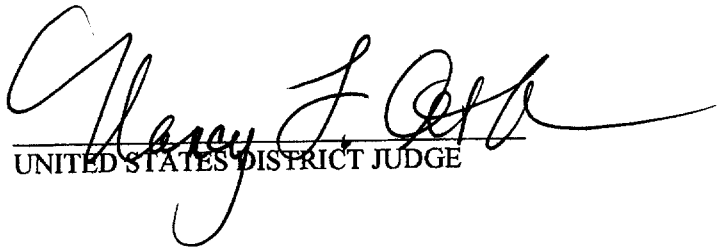
RULE 54(b) CERTIFICATION

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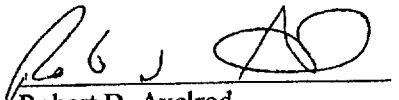
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There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Agreed Final Judgment forthwith and without further notice.

Dated: March 29, 2011.


UNITED STATES DISTRICT JUDGE

Approved as to form:


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