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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA  
PHOENIX DIVISION

Securities and Exchange Commission,

Plaintiff,

vs.

U. S. Reservation Bank & Trust;  
et al.

Defendants,

and

Oyate Development, Inc.;  
et al.

Defendants Solely for  
Purposes of Equitable Relief.

Case No.  
CIV-02-0581 PHX (EHC)

Agreed Judgment as to  
Defendant Edward J.  
Driving Hawk, Sr.

**AGREED JUDGMENT AS TO DEFENDANT  
EDWARD J. DRIVING HAWK, SR.**

The Securities and Exchange Commission having filed a *Complaint* and Defendant Edward J. Driving Hawk, Sr. (“Defendant”) having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action;

1 consented to entry of this *Agreed Judgment* without admitting or denying the allegations  
2 of the *Complaint* (except as to jurisdiction); waived findings of fact and conclusions of  
3 law; and waived any right to appeal from this *Agreed Judgment*:

4 **I.**

5 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and  
6 Defendant's agents, servants, employees, attorneys, and all persons in active concert or  
7 participation with them who receive actual notice of this *Agreed Judgment* by personal  
8 service or otherwise are permanently restrained and enjoined from violating, directly or  
9 indirectly, Section 10(b) of the Securities Exchange Act of 1934 [15 U.S.C. § 78j(b)] and  
10 Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or  
11 instrumentality of interstate commerce, or of the mails, or of any facility of any national  
12 securities exchange, in connection with the purchase or sale of any security:

- 13 (a) to employ any device, scheme, or artifice to defraud;
- 14 (b) to make any untrue statement of a material fact or to omit to state a  
15 material fact necessary in order to make the statements made, in the light of  
16 the circumstances under which they were made, not misleading; or
- 17 (c) to engage in any act, practice, or course of business which operates  
18 or would operate as a fraud or deceit upon any person.

19 **II.**

20 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and  
21 Defendant's agents, servants, employees, attorneys, and all persons in active concert or  
22 participation with them who receive actual notice of this *Agreed Judgment* by personal

1 service or otherwise are permanently restrained and enjoined from violating Section 17(a)  
2 of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77q(a)] in the offer or sale of  
3 any security by the use of any means or instruments of transportation or communication  
4 in interstate commerce or by use of the mails, directly or indirectly:

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

12 **III.**

13 IT IS FURTHER ORDERED ADJUDGED AND DECREED that Defendant and  
14 his agents, servants, employees, attorneys, and all persons in active concert or  
15 participation with him who receive actual notice of this *Agreed Judgment* by personal  
16 service or otherwise, and each of them, is restrained and enjoined from directly or  
17 indirectly, engaging in the business of effecting transactions in securities, in the form of  
18 investment contracts, or any other security, for his own account or for the account of  
19 others, while making use of the mails or any means or instrumentality of interstate  
20 commerce to effect any transaction in, or to induce or attempt to induce the purchase or  
21 sale of, any security (other than an exempted security or commercial paper, banker’s  
22 acceptances, or commercial bills) unless Defendant is registered as a broker or dealer in

1 accordance with Section 15(b) of the Exchange Act [15 U.S.C. §78o(b)] and all  
2 applicable rules promulgated thereunder or is otherwise exempt from registration under  
3 Section 15(a)(1) of the Exchange Act [15 U.S.C. §78o(a)(1)].

4 **IV.**

5 Upon motion of the Commission, the Court shall determine whether it is  
6 appropriate to order disgorgement of ill-gotten gains and/or a civil penalty pursuant to  
7 Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the  
8 Exchange Act [15 U.S.C. § 78u(d)(3)] and, if so, the amount(s) of the disgorgement  
9 and/or civil penalty. If disgorgement is ordered, Defendant shall pay prejudgment interest  
10 thereon, calculated from March 1, 2000, based on the rate of interest used by the Internal  
11 Revenue Service for the underpayment of federal income tax as set forth in 26 U.S.C.  
12 § 6621(a)(2). In connection with the Commission's motion for disgorgement and/or civil  
13 penalties, and at any hearing held on such a motion: (a) Defendant will be precluded from  
14 arguing that he did not violate the federal securities laws as alleged in the Complaint; (b)  
15 Defendant may not challenge the validity of the *Consent* or this *Agreed Judgment*; (c)  
16 solely for the purposes of such motion, the allegations of the Complaint shall be accepted  
17 as and deemed true by the Court; and (d) the Court may determine the issues raised in the  
18 motion on the basis of affidavits, declarations, excerpts of sworn deposition or  
19 investigative testimony, and documentary evidence, without regard to the standards for  
20 summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. In  
21 connection with the Commission's motion for disgorgement and/or civil penalties, the  
22 parties may take discovery, including discovery from appropriate non-parties.

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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 Judgment*.

VII.

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 Judgment* forthwith and without further notice.

DATED this 25th day of September, 2006.



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Earl H. Carroll  
United States District Judge