

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 06-22440-CIV-LENARD/TORRES

SECURITIES AND EXCHANGE COMMISSION,	)
	)
Plaintiff,	)
	)
v.	)
	)
U.S. GAS & ELECTRIC, INC.,	)
LARRY WEBMAN,	)
MELVIN WEBMAN,	)
DONALD E. SECUNDA, and	)
DOUGLAS W. MARCILLE,	)
	)
Defendants.	)
	)

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**AMENDED ORDER OF DEFAULT JUDGMENT OF PERMANENT INJUNCTION  
AND OTHER RELIEF AS TO DEFENDANT MELVIN WEBMAN**

This matter is before the Court on the Securities and Exchange Commission’s Motion for Entry of Default Judgment of Permanent Injunction and Other Relief Against Defendant Melvin Webman. Having considered the motion and the entire record, the Court hereby enters the following Judgment against Defendant Webman in this cause.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The Court has personal jurisdiction over Melvin Webman and jurisdiction over the subject matter of the action. Venue is proper in the Southern District of Florida.
2. Webman was properly served with a summons and a copy of the Complaint pursuant to Rule 4 of the Federal Rules of Civil Procedure. Webman therefore has proper notice of this action.

3. As of the date of this Order, Webman has failed to answer or otherwise file a responsive pleading to the Complaint as required by the Federal Rules of Civil Procedure.

4. The Court entered a default against Webman on October 26, 2006. By virtue of the default and his failure to respond to the Complaint, Webman is deemed to have admitted the allegations of the Complaint, and liability is established against him. *Buchanan v. Bowman*, 820 F.2d 359, 361 (11th Cir. 1987); *Nishimatsu Construction Co. v. Houston Nat'l Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975); *Dundee Cement Co. v. Howard Pipe & Concrete Products, Inc.*, 722 F.2d 1319, 1323 (7th Cir. 1983); *Miller v. Paradise of Port Richey, Inc.*, 75 F. Supp.2d 1342, 1346 (M.D. Fla. 1999). Accordingly, the Court finds Webman committed the violations alleged in the Complaint.

5. Webman is not an infant or incompetent person and has no guardian, committee, conservator or other such person appearing on his behalf. Accordingly, it is:

### **I. JUDGMENT**

**ORDERED AND ADJUDGED** that the Plaintiff's Motion for Entry of Default Judgment of Permanent Injunction and Other Relief Against Defendant Webman is **GRANTED**.

### **II. PERMANENT INJUNCTION**

**IT IS FURTHER ORDERED AND ADJUDGED** that Webman, his agents, servants, employees, attorneys, representatives, and all persons in active concert or participation with him who receive actual notice of this Judgment by personal service or otherwise are permanently restrained and enjoined from:

#### **Section 17(a) of the Securities Act of 1933**

Violating Section 17(a) of the Securities Act of 1933 (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;

**Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5**

Violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder, 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;

**Section 5 of the Securities Act**

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; and

#### **Section 15(a)(1) of the Exchange Act**

Violating Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o(a)(1), directly or indirectly, singly or in concert, by use 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 or sale of securities while not associated with a broker-dealer that is registered with the Commission in accordance with the provisions of Section 15(b) of the Exchange Act, 15 U.S.C. § 78o.

#### **III. PENNY STOCK BAR**

**IT IS FURTHER ORDERED AND ADJUDGED** that pursuant to Section 21(d) of the Exchange Act, 15 U.S.C. § 78u(d), Webman is barred from participating in an offering of a penny stock, including acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for purposes of issuing, trading or inducing

or attempting to induce the purchase or sale of any penny stock. A penny stock is any equity security that has a price of less than five dollars, except as provided in Rule 3a51-1 under the Exchange Act, 17 C.F.R. § 240.3a51-1.

#### **IV. DISGORGEMENT**

**IT IS FURTHER ORDERED AND ADJUDGED** that Webman shall pay disgorgement representing his gains from the conduct alleged in the Complaint, plus pre-judgment interest. The Court shall determine the amount of disgorgement upon the Commission's motion to set disgorgement and its submission of supporting evidence.

#### **V. CIVIL MONEY PENALTIES**

**IT IS FURTHER ORDERED AND ADJUDGED** that Webman shall pay a civil money penalty pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), based upon the conduct alleged in the Complaint. The Court shall determine the amount of the civil penalty upon the Commission's motion to set same.

#### **VI. 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 Judgment forthwith and without further notice.

#### **VII. RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED AND ADJUDGED** that this Court shall retain jurisdiction over this matter and Webman in order to implement and carry out the terms of all Orders and Decrees that may be entered or to entertain any suitable application or motion for

additional relief within the jurisdiction of this Court, and will order other relief that this Court deems appropriate under the circumstances.

**DONE AND ORDERED** this 16th day of November, 2006 in Chambers in Miami, Florida.

  
**HONORABLE JOAN A. LENARD**  
**UNITED STATES DISTRICT JUDGE**

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