

1/17/09 PLAN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

BIOVAIL CORPORATION,
EUGENE N. MELNYK,
BRIAN CROMBIE,
JOHN MISZUK, and
KENNETH G. HOWLING,

Defendants.

08 Civ. 02979 (LAK)
ECF CASE

FINAL JUDGMENT ON THE NINTH CLAIM FOR RELIEF IN THE
COMPLAINT AND AMENDED COMPLAINT
AS TO DEFENDANT EUGENE N. MELNYK

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that

Defendant Eugene N. Melnyk ("Defendant") and Defendant's agents, servants, employees, attorneys, 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 violating, directly or indirectly, Section 13(d) of the Exchange Act [15 U.S.C. § 78m(d)] and Rules 13d-1 and 13d-2 [17 C.F.R. §§ 240.13d-2], by, among other things, failing to file, filing in an untimely manner, or filing inaccurate information in statements with the Commission regarding ownership of an issuer's securities that are registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 781].

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IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED

that Defendant shall pay a civil penalty in the amount of \$1,000,001 pursuant to Section 21(d)(3) of the Exchange Act. Defendant shall make this payment within ten (10) business days after entry of this Judgment by certified check, bank cashier's check, or United States postal money order payable to the Clerk of this Court, together with a cover letter identifying Eugene N. Melnyk 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 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.

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.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Judgment fully and finally resolves as to Defendant only the Ninth Claim for Relief set forth in the Complaint and the Amended Complaint, and does not resolve any other

claims or allegations asserted against Defendant in the Complaint or Amended Complaint, all of which continue to remain the subject of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purpose of enforcing the terms of this Judgment and for all other purposes.

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.

Dated: 1/2/09


UNITED STATES DISTRICT JUDGE