

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
(Miami Division)

CASE NO. 00-4975-CIV-HIGHSMITH/GARBER

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

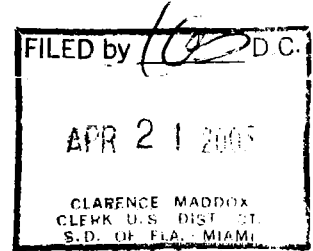
v.

WEB HOSTING HEADQUARTERS PARTNERSHIP,
et al.,

Defendants, and

WEB HOSTING HEADQUARTERS, INC., *et al.*,

Relief Defendants.



**FINAL JUDGMENT OF PERMANENT INJUNCTION AND OTHER
RELIEF AS TO DEFENDANT DONALD E. RHOADES**

Plaintiff Securities and Exchange Commission (“SEC” or “Commission”) commenced this action by filing its Complaint against, among others, Defendant Donald E. Rhoades (“Defendant”). In its Complaint, the Commission sought a temporary restraining order, and preliminary and permanent injunctions to prohibit violations by the Defendant of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 (“Securities Act”), Sections 10(b) and 15(a)(1) of the Securities Exchange Act of 1934 (“Exchange Act”), and Rule 10b-5, thereunder. The Commission also sought other relief against the Defendant in the form of accountings, disgorgement, records preservation, expedited discovery, an order temporarily freezing assets and an order imposing civil penalties.

Defendant, by the Consent affixed hereto, without admitting or denying any of the allegations in the Commission's Complaint or any other paper filed herein, except as to

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personal and subject matter jurisdiction, has agreed to the entry of this Final Judgment of Permanent Injunction and Other Relief (“Final Judgment”), waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment. This Court having accepted such Consent and this Court having jurisdiction over the Defendant, and the subject matter hereof, and the Court being fully advised in the premises,

I.

**VIOLATION OF SECTIONS 5(a)
AND 5(c) OF THE SECURITIES ACT**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant, his officers, agents, servants, employees, representatives, and all persons in active concert or participation with him, and each of them, directly or indirectly, who receive actual notice of this Final Judgment, by personal service or otherwise, be and they hereby are permanently restrained and enjoined from, directly or indirectly:

- (a) making use of the means or instruments of transportation or communication in interstate commerce or of the mails to sell any security, in the form of units, common stock, warrants or any other security, through the use or medium of any prospectus or otherwise, unless and until a registration statement is in effect with the Commission as to such security;
- (b) carrying or causing to be carried through the mails or in interstate commerce, by means or instruments of transportation, any security, in the form of units, common stock, warrants or any other security, for the purpose of sale or delivery after sale, unless and until a registration statement is in effect with the Commission as to such security; 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 any security, in the form of units, common stock, warrants or any other security, through the use or medium of any prospectus or otherwise, unless and until a registration statement is filed with the Commission as to such security, or while a registration statement filed with the Commission as to such security 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,

in violation of Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c).

II.

VIOLATION OF SECTION 17(a) OF THE SECURITIES ACT

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Defendant, his officers, agents, servants, employees, representatives, and all persons in active concert or participation with him, and each of them, directly or indirectly, who receive actual notice of this Final Judgment, by personal service or otherwise, be and they hereby are, permanently restrained and enjoined from, directly or indirectly, singly or in concert, as aiders and abettors or otherwise, 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:

- (a) employing any device, scheme or artifice to defraud;
- (b) obtaining money or property by means of any untrue statement of material fact or omission to state any material fact necessary in order to make the

statement made, in light of the circumstances under which it was made, not misleading; or

- (c) engaging in any transaction, practice or course of business which operates or would operate as a fraud or deceit upon purchasers or prospective purchasers of any such security,

in violation of Sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Securities Act, 15 U.S.C. §§ 77q(a)(1), 77q(a)(2) and 77q(a)(3).

III.

VIOLATION OF SECTION 10(b) OF THE EXCHANGE ACT AND RULE 10b-5 THEREUNDER

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant, his officers, agents, servants, employees, representatives, and all persons in active concert or participation with him, and each of them, directly or indirectly, who receive actual notice of this Final Judgment, by personal service or otherwise, be and they hereby are, permanently restrained and enjoined from, directly or indirectly, singly or in concert, as aiders and abettors or otherwise, in connection with the purchase or sale of any security, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange:

- (a) employing any device, scheme or artifice to defraud;
- (b) making any untrue statements of material fact or omitting 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) 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 Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5, thereunder.

IV.

VIOLATION OF SECTION 15(a)(1) OF THE EXCHANGE ACT

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant, his officers, agents, servants, employees, representatives, and all persons in active concert or participation with him, and each of them, directly or indirectly, who receive actual notice of this Final Judgment, by personal service or otherwise, be and they hereby are, permanently restrained and enjoined from, directly or indirectly, making use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of securities, while acting as a broker or dealer engaged in the business of effecting transactions in securities for the accounts of others, but not registered as a broker-dealer in accordance with Section 15(b) of the Exchange Act, 15 U.S.C. § 78o(b), in violation of Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o(a)(1).

V.

DISGORGEMENT & CIVIL PENALTY

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant shall pay disgorgement in the amount of \$764,272, representing the proceeds he received as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$98,664. Defendant shall pay the disgorgement ordered herein to Christian R. Bartholomew, the Court-appointed Receiver for Web Hosting Headquarters Partnership (“Receiver”), for distribution to the investors of Web Hosting.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Defendant shall pay a civil money penalty in the amount of \$185,000, pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 7t(d), and Section 21(d) of the Exchange Act, 15 U.S.C. § 78(d)(3). Defendant shall pay the civil penalty ordered herein to the Receiver, who shall distribute the funds pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002.

In satisfaction of the disgorgement, prejudgment interest and civil penalty ordered in this Final Judgment, Defendant shall stipulate to the release and transfer of funds currently held frozen in accounts directly or indirectly controlled by Defendant (including accounts in the name of Defendant, Control Marketing, Inc., National Millennium Corp., and Commercial Solutions) to the Receiver, and Defendant hereby agrees to relinquish all legal and equitable claims to those funds.

VI.

INCORPORATION OF CONSENT

IT IS HEREBY FURTHER ORDERED that Defendant shall comply with the provisions of the Consent attached hereto, and that such Consent is incorporated herein by reference as if fully set forth herein.


VII.

RETENTION OF JURISDICTION

IT IS FURTHER HEREBY ORDERED that this Court will retain jurisdiction over this matter and the Defendant in order to implement and carry out the terms of all Orders and Decrees that may be entered and/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 at 2:00 o'clock P.m. this 17 day of April, 2003 at Miami, Florida.


HONORABLE SHELBY HIGHSMITH
UNITED STATES DISTRICT JUDGE

Copies to: All Parties or their Counsel of Record

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FEDERAL JUSTICE BUILDING
TENTH FLOOR
99 NORTHEAST 4TH STREET
MIAMI, FLORIDA 33132

SHELBY HIGHSMITH
UNITED STATES DISTRICT JUDGE

(305) 523-5170

February 6, 2003

NOTICE TO ATTORNEYS AND LITIGANTS

Please be advised that effective Thursday, February 6, 2003, the Chambers of Judge Highsmith will fully implement and utilize the Court's **FAXBACK** program. The Clerk's Office will fax orders, notices, and judgments to all counsel of record and *pro se* parties who have provided their fax number to the Court. In the event a party does not have a fax machine, the document is sent via U.S. Mail. If you have a fax machine but have not been receiving your orders via facsimile, please complete the enclosed application and return it via fax or U.S. Mail to the Clerk's Office. The Faxback program alleviates the need to submit multiple copies of proposed orders and self-addressed postage paid envelopes. Accordingly, all filings and proposed orders submitted by a party must include a current service list on a separate page with the following information:

Name of Attorney or *Pro se* Party

Law Firm Name

Mailing Address

Telephone Number

Fax number

Counsel for _____

Thank you for your cooperation. For more information, please contact the faxback clerk at (305) 523-5212.