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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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Date

SECURITIES AND EXCHANGE COMMISSION,

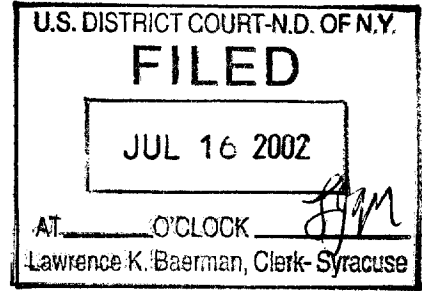
Plaintiff,

-against-

WILLIAM J. OLIVIERI, NEPTUNE SOFT
WATER, INC. and A VERY NICE CAR CO., INC.,

Defendants.

5: 00-Cv-532 (HGM) (DEP)



**FINAL CONSENT JUDGMENT OF
PERMANENT INJUNCTION AND OTHER RELIEF
AS TO DEFENDANT WILLIAM J. OLIVIERI**

Plaintiff Securities and Exchange Commission ("Commission"), having commenced this action by filing a Complaint ("Complaint") on April 6, 2000, charging William J. Olivieri ("Olivieri"), Neptune Soft Water, Inc. ("Neptune") and A Very Nice Car Co., Inc. ("Nice Car") with violations of Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)], and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)], and Rule 10b-5 [17 C.F.R. § 240.10b-5]; and additionally charging Olivieri and Neptune with violations of Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a), 77e(c)]; and Olivieri, having executed confessions of judgment to investors in the amount of \$616,339.79 (the "Confessions of Judgment") pursuant to a criminal plea agreement in a parallel criminal proceeding, and having subsequently paid \$45,000 towards satisfaction of the Confessions of Judgment, and having accepted service of the summons issued to him and the Complaint, having admitted to the jurisdiction of this Court over him and over the subject matter

of this action, having waived the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, and, without admitting or denying the allegations contained in the Complaint (except as to jurisdiction, which are admitted), having entered into a Partial Final Consent Judgment, and, without admitting or denying the allegations contained in the Complaint (except as to jurisdiction, which are admitted), having executed the attached **Consent of Defendant William J. Olivieri (“Consent”)** incorporated herein, and having consented to the entry without further notice of this **Final Consent Judgment Of Permanent Injunction And Other Relief As To Defendant William J. Olivieri (“Final Judgment”)**, which supersedes the Partial Final Consent Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Olivieri be, and hereby is, permanently enjoined and restrained from, directly or indirectly, singly or in concert:

- A. unless a registration statement is in effect as to a security,
 - 1. making use of any means or instrument 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;
 - 2. carrying or causing to be carried through the mails or in interstate commerce by any means or instrument of transportation any such security for the purpose of sale or for delivery after sale; or
- B. 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 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,

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

II.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Olivieri be, and hereby is, permanently enjoined and restrained from, directly or indirectly, singly or in concert, in the offer or sale of any securities by the use of any means or instrument of transportation or communication in interstate commerce or by the 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 a material fact or any omission to state 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. engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser,

in violation of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Olivieri be, and hereby is, permanently enjoined and restrained from, directly or indirectly, singly or in concert,

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 statement of a 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 connection with the purchase or sale of any security, 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].

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, in the event that the amounts set forth in the Confessions of Judgment are not paid in full by July 31, 2005, Olivieri shall, joint and severally with Neptune and Nice Car, disgorge \$571,339.79 in ill-gotten gains from the conduct alleged in the Complaint, less any amounts paid to investors under the Confessions of Judgment after the entry of this **Final Judgment**.

In such event, Olivieri shall, joint and severally with Neptune and Nice Car, also pay: (i) prejudgment interest on the full amount of their ill-gotten gains (\$571,339.79), calculated in accordance with Section 6621(a)(2) of the Internal Revenue Code and measured from October 31, 1996 to the date of the entry of this **Final Judgment**; and (ii) post-judgment interest in accordance with 28 U.S.C. § 1961 on the unpaid balance due under the Confessions of Judgment.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, in the event that Olivieri is required to make payment under paragraph IV above, Olivieri shall make such payment by postal money order, certified check, bank cashier's check or bank money order, payable to the Clerk of the United States District Court for the Northern District of New York for deposit into an interest-bearing account by August 31, 2005. Interest earned on the funds in the account shall be credited to the account and shall thereafter be treated in the same manner as principal. Funds in the account shall be held until further order of the Court. In no event shall any portion of the funds held in the account be returned to Olivieri, his successors or assigns.

VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the annexed **Consent** be and hereby is incorporated in this **Final Judgment** with the same force and effect as if fully set forth herein.

VII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Federal Rule of Civil Procedure 65(d), this **Final Judgment** shall be binding on Olivieri, his agents, servants, employees, attorneys, and upon those persons in active concert or participation with him who receive actual notice of this **Final Judgment** by personal service or otherwise.

VIII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for all purposes, including, but not limited to, implementing and enforcing the terms and conditions of this **Final Judgment**.

IX.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that there is no just reason for delay, and the Clerk of the Court is hereby directed to enter this **Final Judgment** pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

**CONSENT OF DEFENDANT
WILLIAM J. OLIVIERI**

1. Defendant William J. Olivieri (“Olivieri”), being fully apprised of his rights, having had the opportunity to confer with counsel, having accepted service of the summons issued to him and the complaint in this action, having read and understood the terms of the annexed **Final Consent Judgment Of Permanent Injunction And Other Relief As To Defendant William J. Olivieri (“Final Judgment”)**, appears and admits the jurisdiction of this Court over him and over the subject matter of this action, waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure and, without admitting or denying the allegations contained in the Complaint of Plaintiff Securities and Exchange Commission (“Commission”), except as to jurisdiction, which are admitted, hereby consents to the entry, without further notice, of the **Final Judgment**.

2. Olivieri agrees that this **Consent of Defendant William J. Olivieri (“Consent”)** shall be incorporated by reference in and made part of the annexed **Final Judgment** to be presented to the Court for signature, filing, and entry contemporaneously herewith.

3. Olivieri waives any right he may have to appeal from the **Final Judgment**.

4. Olivieri acknowledges that a willful violation of any of the terms or provisions of the **Final Judgment** may place him in contempt of this Court and subject him to civil or criminal sanctions.

5. Olivieri acknowledges that he enters into this **Consent** voluntarily, and that this **Consent** and the **Final Judgment** embody the entire understanding of the parties. Olivieri acknowledges and agrees that this proceeding, and his consent to the entry of the **Final Judgment**, are for the purpose of resolving this civil action only, and that no tender, offer, threat,

promise, or inducement of any kind has been made by Plaintiff Commission or by any member, officer, attorney, agent, or representative thereof, with regard to (a) this civil action, that is not explicitly stated in this **Consent** or the **Final Judgment**; (b) any administrative proceeding brought or to be brought before the Commission involving the **Final Judgment** or the facts underlying this action; (c) any other Commission civil action or administrative proceeding not involving the facts underlying this action; (d) any administrative, civil, or criminal liability arising from the facts underlying this action in any action or proceeding brought or to be brought by any third party, other agency or criminal authority; or (e) immunity from any such administrative, civil, or criminal action or proceeding.

6. Olivieri acknowledges that he has been informed and understands that Plaintiff Commission, at its sole and exclusive discretion, may have referred or granted or may in the future refer or grant access to this matter, or any information or evidence gathered in connection therewith or derived therefrom, to any person or entity having appropriate administrative, civil, or criminal jurisdiction or authority, if the Commission has not already done so.

7. Olivieri acknowledges and agrees that this **Consent** to the entry of the **Final Judgment** is for the purpose of resolving this civil action only, in conformity with the provisions of 17 C.F.R. § 202.5(f), and does not resolve, extend to, affect or preclude any other proceeding which may be brought against him by any criminal authority. Olivieri waives any right he may have to assert that under the Double Jeopardy Clause of the United States Constitution, the relief consented to in this civil action, including the imposition of any remedy or civil penalty herein, bars any criminal action, or that any criminal action bars the relief consented to in this civil action.

8. Olivieri acknowledges and agrees that the disgorgement order set forth in paragraph IV of the **Final Judgment** is a non-dischargeable debt pursuant to the fraudulent discharge exception contained in Bankruptcy Code Section 523(a)(2).

9. Olivieri agrees that first class mail to Jonathan D. Sims, his counsel, at Siegle & Sims L.L.P., 217 Broadway, Suite 611, New York, New York 10007, shall be deemed personal service for all correspondence, service, and notices as to any matter related to this **Consent** and the **Final Judgment**, unless Olivieri notifies the Commission otherwise by letter addressed to counsel for the Securities and Exchange Commission, Northeast Regional Office, 233 Broadway, New York, New York 10279.

10. Olivieri understands and agrees to comply with the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings." 17 C.F.R. § 202.5(e). In compliance with this policy, Olivieri agrees: (i) not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any allegation in the Complaint or creating the impression that the Complaint is without factual basis; and (ii) that upon the filing of this **Consent**, Olivieri hereby withdraws any papers filed in this action to the extent that they deny any allegation in the Complaint. If Olivieri breaches this agreement, the Commission may petition the Court to vacate the **Final Judgment** and restore this action to its active docket. Nothing in this provision affects Olivieri's: (i) testimonial obligations; or (ii) right to take legal positions in litigation in which the Commission is not a party.

