

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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| _____ |) | |
| SECURITIES AND EXCHANGE COMMISSION, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Civil Action No. 00-10182-EFH |
| |) | |
| NANCY J. CHEAL, individually and |) | |
| d/b/a RELIEF ENTERPRISE, |) | |
| |) | |
| Defendant, |) | |
| |) | |
| and |) | |
| |) | |
| RICHARD L. BIRMINGHAM, |) | |
| |) | |
| Relief Defendant. |) | |
| _____ |) | |

**FINAL JUDGMENT OF PERMANENT INJUNCTION,
DISGORGEMENT AND OTHER RELIEF**

Plaintiff Securities and Exchange Commission (“SEC”) having filed a Complaint in this action, defendant Nancy J. Cheal, individually and doing business as “Relief Enterprise” and relief defendant Richard L. Birmingham having filed answers to the Complaint; the SEC having filed a motion for summary judgment on February 28, 2003, and the Court having considered the SEC’s motion for summary judgment and any response thereto:

I.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Cheal and her agents, servants, employees, successors or assigns, and all persons in active concert or

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participation with them who receive actual notice of this Final Judgment by personal service or otherwise, are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §78j(b)] and Rule 10b-5 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:

- (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,

in connection with the purchase or sale of any security.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Cheal and her agents, servants, employees, attorneys, successors or assigns, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise, are permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §77q(a)] by, directly or indirectly, 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 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 the 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 of such security.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Cheal and her agents, servants, employees, attorneys, successors or assigns, and all persons in active concert or participation with them who receive actual notice of this Final Judgment, are permanently restrained and enjoined from violating Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§77e(a), (c)] by, directly or indirectly:

- (a) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell any security, through the use or medium of any prospectus or otherwise, unless a registration statement is in effect as to such security;
- (b) carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any security for the purpose of sale or for delivery after sale, unless a registration statement is in effect 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, 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 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];

provided, however, that the provisions of this paragraph shall not apply to any security or transaction which is exempt from the provisions of Section 5 of the Securities Act [15 U.S.C. §77e].

IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Cheal is liable for disgorgement of profits gained as a result of the conduct alleged in the Complaint. Cheal shall satisfy her disgorgement obligation by complying with the order of restitution to be entered against her in the parallel criminal proceeding entitled United States v. Nancy J. Cheal, D.Mass. Criminal No. 01-10076-RWZ.

V.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that, 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)], Cheal shall pay a civil monetary penalty in the amount of \$ 500,000.00. Cheal shall pay this penalty within thirty (30) days after entry of this Final Judgment. The payment shall be made by money order, certified check or cashier's check made payable to the U.S. Securities and Exchange Commission. The payment shall be mailed to the Comptroller, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 1-3,

Washington, DC 20549, with a cover letter identifying Cheal, the name and number of this action, and the name of this Court. Copies of the payment and cover letter shall be mailed to Frank C. Huntington, Securities and Exchange Commission, 73 Tremont Street, Suite 600, Boston, MA 02108.

VI.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Birmingham is liable for disgorgement of profits gained as a result of the conduct alleged in the Complaint in the amount of \$875,000, plus pre-judgment interest in the amount of \$220,345, for a total disgorgement obligation of \$1,095,345. Birmingham shall pay this disgorgement obligation within thirty (30) days after entry of this Final Judgment. The payment shall be made by money order, certified check or cashier's check made payable to the Clerk, United States District Court for the District of Massachusetts. The payment shall be mailed to the Clerk of this Court at the John Joseph Moakley U.S. Courthouse, One Courthouse Way, Boston, MA 02210, with a cover letter identifying Birmingham, the name and number of this action, and the name of this Court. Copies of the payment and cover letter shall be mailed to Frank C. Huntington, Securities and Exchange Commission, 73 Tremont Street, Suite 600, Boston, MA 02108. The disgorged funds and prejudgment interest shall be held by the Registry of this Court in an interest-bearing account pending further order of the Court. Upon payment of the disgorgement obligation set forth above, Birmingham shall relinquish all legal and equitable right, title and interest in such payment, and no part of the funds shall be returned to him.

VII.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction over Cheal and Birmingham as parties to this matter for all purposes, including the implementation and enforcement of this Final Judgment.

DONE AND ORDERED at Boston, Massachusetts, this 17 day of April, 2003.


UNITED STATES DISTRICT JUDGE