



FILED U.S. DISTRICT COURT

JUL 16 1998

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CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

SECURITIES AND EXCHANGE COMMISSION,	:	Civil Action No.
	:	CV 97-5993 RAP (JGx)
Plaintiff,	:	
	:	FINAL JUDGMENT OF
v.	:	PERMANENT INJUNCTION AND
	:	OTHER RELIEF AGAINST
AMERICAN GROWTH CAPITAL CORP.,	:	DEFENDANT EMANUEL B.
AMERICAN GROWTH FUND I, LP,	:	NEDWICK
GROWTH CAPITAL RESOURCES CORP.,	:	
CAPITAL GROWTH FUND I, LP,	:	
DONNA L. SNYDER, CHARLES E.	:	
DUQUETTE, ROBERT K. KELLY, HUGO V.	:	
CIANCIULLI, WILLIAM M. McNARY,	:	
EMANUEL B. NEDWICK, JEROME L.	:	
GLAZOV, AND CHRISTOPHER A. PAULICK,	:	
Defendants.	:	

THIS CONSTITUTES NOTICE OF ENTRY AS REQUIRED BY FRCP, RULE 77(d).

Plaintiff Securities and Exchange Commission ("Commission"),  
having filed and served upon Defendant Emanuel B. Nedwick  
("Nedwick") a Summons and Complaint in this matter and Defendant  
Nedwick having admitted service upon him of the Summons and  
Complaint in this action and the jurisdiction of this Court over  
him and over the subject matter of this action; having been fully  
advised and informed of his rights to a judicial determination of

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1 this matter; having waived the entry of findings of fact and  
2 conclusions of law as provided by Rule 52 of the Federal Rules of  
3 Civil Procedure; having consented to the entry of this Final  
4 Judgment of Permanent Injunction and Other Relief Against  
5 Defendant Emanuel B. Nedwick ("Final Judgment") without admitting  
6 or denying the allegations in the Complaint, except as  
7 specifically set forth in the Consent of Defendant Emanuel B.  
8 Nedwick to Entry of Final Judgment of Permanent Injunction and  
9 Other Relief ("Consent"); and it appearing that no notice of  
10 hearing upon the entry of this Final Judgment being necessary;  
11 and the Court being fully advised in the premises, and there  
12 being no just reason for delay:

13 I.

14 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant  
15 Nedwick and his agents, servants, employees and attorneys, and  
16 all persons in active concert or participation with any of them,  
17 who receive actual notice of this Final Judgment, by personal  
18 service or otherwise, and each of them, are permanently  
19 restrained and enjoined from, directly or indirectly, in the  
20 offer or sale of the securities of any issuer, by the use of any  
21 means or instruments of transportation or communication in  
22 interstate commerce or by the use of the mails:

- 23 A. employing any device, scheme or artifice to defraud;
- 24 B. obtaining money or property by means of any untrue  
25 statement of a material fact or any omission to state a  
26 material fact necessary in order to make the statements  
27 made, in the light of the circumstances under which  
28 they were made, not misleading; or

1 C. engaging in any transaction, practice, or course of  
2 business which operates or would operate as a fraud  
3 or deceit upon the purchaser;  
4 in violation of Section 17(a) of the Securities Act of 1933, as  
5 amended, ("Securities Act") [15 U.S.C. § 77q(a)].

6 II.

7 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant  
8 Nedwick and his agents, servants, employees and attorneys, and  
9 all persons in active concert or participation with any of them,  
10 who receive actual notice of this Final Judgment, by personal  
11 service or otherwise, and each of them, are permanently  
12 restrained and enjoined from, directly or indirectly, by the use  
13 of any means or instrumentality of interstate commerce, or of the  
14 mails, or of any facility of any national securities exchange:

15 A. employing any device, scheme, or artifice to defraud;

16 B. making any untrue statement of a material fact or  
17 omitting to state a material fact necessary in order  
18 to make the statements made, in the light of the  
19 circumstances under which they were made, not  
20 misleading; or

21 C. engaging in any act, practice, or course of business  
22 which operates or would operate as a fraud or deceit  
23 upon any person, in connection with the purchase or  
24 sale of any security;

25 in violation of Section 10(b) of the Securities Exchange Act of  
26 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5  
27 thereunder [17 C.F.R. § 240.10b-5].

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1 III.

2 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant  
3 Nedwick, and his agents, servants, employees and attorneys, and  
4 all persons in active concert or participation with any of them,  
5 who receive actual notice of this Final Judgment by personal  
6 service or otherwise, and each of them, are permanently  
7 restrained and enjoined from, directly or indirectly:

8 A. making use of any means or instruments of  
9 transportation or communication in interstate commerce  
10 or of the mails to sell the securities of any issuer,  
11 through the use or medium of any prospectus or  
12 otherwise, unless and until a registration is in effect  
13 as to such securities;

14 B. carrying or causing to be carried through the mails or  
15 in interstate commerce, by any means or instruments of  
16 transportation, for the purpose of sale or for delivery  
17 after sale, the securities of any issuer, unless and  
18 until a registration statement is in effect as to such  
19 securities; and

20 C. making use of any means or instruments of  
21 transportation or communication in interstate commerce  
22 or of the mails to offer to sell or offer to buy,  
23 through the use or medium of any prospectus or  
24 otherwise, the securities of any issuer, unless and  
25 until a registration statement has been filed with the  
26 Commission as to such securities, or while a  
27 registration statement as to such securities is the  
28 subject of a refusal order or stop order or (prior to



1 of Financial Condition submitted to the Commission, cash payment  
2 of all but \$10,000 of the disgorgement and prejudgment interest  
3 thereon is waived. As partial payment of disgorgement Nedwick  
4 shall: (1) pay \$10,000 in cash, pursuant to the payment plan  
5 outlined in ¶ 13 of his Consent; and (2) transfer all beneficial  
6 interest in any and all units (and options to purchase units) in  
7 American Growth Fund I, LP ("A.G. Fund"), transfer to be made to  
8 the Receiver over A.G. Fund within thirty (30) days after the  
9 entry of the Final Judgment. This waiver is contingent upon the  
10 accuracy and completeness of Defendant Nedwick's Statement of  
11 Financial Condition.

12 VII.

13 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that if, at any  
14 time following the entry of this Final Judgment, the Commission  
15 obtains information indicating that Defendant Nedwick's  
16 representations to the Commission concerning his assets, income,  
17 liabilities, or net worth were fraudulent, misleading,  
18 inaccurate, or incomplete in any material respect as of the time  
19 such representations were made, the Commission may, at its sole  
20 discretion and without prior notice to Defendant, petition this  
21 Court for an order requiring Nedwick to pay full disgorgement and  
22 prejudgment and postjudgment interest thereon, less any amounts  
23 paid by Nedwick as per his agreement described in ¶ 13 of his  
24 Consent. In connection with any such petition, the only issue  
25 shall be whether the financial information provided by Defendant  
26 Nedwick was fraudulent, misleading, inaccurate, or incomplete in  
27 any material respect as of the time such representations were  
28 made. In its petition, the Commission may move this Court to

1 consider all available remedies, including, but not limited to,  
2 ordering Defendant to pay funds or assets, directing the  
3 forfeiture of any assets, or sanctions for contempt of this Final  
4 Judgment, and the Commission may also request additional  
5 discovery. Defendant Nedwick may not, by way of defense to such  
6 petition, challenge the validity of his Consent or the Final  
7 Judgment, contest the allegations in the Complaint filed by the  
8 Commission, contest the amount of disgorgement and interest, or  
9 assert that disgorgement should not be ordered.

10 VIII.

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, based upon  
12 Defendant Nedwick's sworn representations to the Commission that  
13 he is financially unable to pay a penalty, the Court is not  
14 ordering Nedwick to pay a penalty. The Court does, however, note  
15 the appropriateness of a civil penalty in this instance. The  
16 determination that Defendant Nedwick is unable to pay a civil  
17 penalty is conditioned on the accuracy and completeness of  
18 Nedwick's sworn representations in his Statement of Financial  
19 Condition submitted to the Commission. If, at any time following  
20 the entry of this Final Judgment, the Commission obtains  
21 information indicating that Defendant Nedwick's representations  
22 to the Commission concerning his assets, income, liabilities, or  
23 net worth were fraudulent, misleading, inaccurate, or incomplete  
24 in any material respect as of the time such representations were  
25 made, the Commission may, at its sole discretion and without  
26 prior notice to Defendant, petition this Court for a hearing to  
27 determine whether Nedwick should be ordered to pay a civil  
28 penalty. In connection with any such petition, the only issue

1 shall be whether the financial information provided by Defendant  
2 Nedwick was fraudulent, misleading, inaccurate, or incomplete in  
3 any material respect as of the time such representations were  
4 made. In its petition, the Commission also may seek any  
5 additional remedies, or request further discovery. Nedwick may  
6 not by way of defense to that petition, contest the allegations  
7 in the Complaint, or assert that no penalty is appropriate for  
8 the violations alleged in the Complaint.

9 IX.

10 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the  
11 provisions of the Consent filed concurrently with this Final  
12 Judgment are incorporated herein with the same force and effect  
13 as if fully set forth herein and that Nedwick shall comply with  
14 his Consent.

15 X.

16 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court  
17 shall retain jurisdiction over this action to implement and  
18 enforce the terms of the Final Judgment and other decrees that  
19 may be entered herein and to grant such other relief as the Court  
20 may deem necessary and just.

21 \* \* \* \* \*

22 There being no just reason for delay, the Clerk of the Court  
23 is hereby directed, pursuant to Rule 54(b) of the Federal Rules  
24 of Civil Procedure, to enter this Final Judgment forthwith.

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JUL 16 1998

**RICHARD A. PAEZ**

27 DATED: \_\_\_\_\_

UNITED STATES DISTRICT JUDGE

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