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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, :

98 Civ. 3446 (MP)

Plaintiff, :

-against- :

PAUL J. MONTLE, LS CAPITAL
CORPORATION, PAUL V. CULOTTA,
CAROL C. MARTINO,
CMA NOEL, LTD., MARIO J. IACOVIELLO,
ILAN ARBEL, AND
EUROPE AMERICAN CAPITAL
CORPORATION, :

Defendants. :



FINDINGS OF FACT AND CONCLUSIONS OF LAW

On May 7 through May 10, 2001, the Court held a bench trial regarding solely the claims of plaintiff Securities and Exchange Commission (the "Commission") against defendant Paul J. Montle ("Montle"). The Defendant testified for two days on direct and cross examination. His statements, particularly those that were made during cross-examination by the Commission's lead counsel, often defied reason. On several occasions the Commission confronted the Defendant with written evidence of securities violations. Despite obvious evidence of wrongdoing, the Defendant propounded incredulous justifications or interpretations that distorted the evidence with which he was confronted. One example chosen from many is the Defendant's obstinate characterization of a sale of securities as a loan, through which he attempted to circumvent reporting requirements. This testimony, as well as all of the Defendant's testimony on issues that were disputed, was without even the semblance of credibility. Defendant's

testimony was infected by the same variety of distortion and outright falsehood that accompanied his deceptions in the arena of publicly held companies. Furthermore, the years that have past between the time period that was the subject of this litigation and trial apparently have done nothing to soften Defendant's attitude.

In short, the Defendant's testimony on key matter was not worthy of belief and the issues of credibility are resolved in favor of the Plaintiff and against the Defendant.

ADDITIONAL FINDINGS OF FACT

I. VTS Claims

1. Montle was CEO (and initially President) of a company called Viral Testing Systems Corporation ("VTS"). He also served on its Board of Directors and controlled its operations.
2. VTS marketed an HIV screening and confirmation test called "Fluorognost."
3. An article titled "VTS Is The Hidden Jewel In The Biotech Patch" appeared in the December 1992 issue (Vol. 12, No. 12) of Today's Investor (the "Today's Investor article").
4. The final draft of the Today's Investor article was completed by November 11, 1992, and the article went on sale November 24, 1992. The Today's Investor article remained in circulation until at least December 24, 1992.
5. The Today's Investor article contains the following false statements and baseless projections regarding VTS's Fluorognost sales and revenues (the "Today's Investor Statements"): (1) sales of VTS's Fluorognost test kits "in the first few months have been generating \$50,000 monthly in revenues"; (2) VTS's monthly revenue from Fluorognost will "increase six to eight fold within six months and double that by the end of 1993"; (3) VTS

maintained low prices for Fluorognost by "using a formidable and well-seasoned telemarketing staff"; (4) by avoiding middle-men, "VTS can keep its [Fluorognost] unit price reasonable, wreak havoc with its competition, and still earn a healthy profit"; (5) Fluorognost has "proven to be an easy sale"; and (6) "[s]oon sales will come even easier and quicker thanks to the endorsement of FLUOROGNOST from none other than the American Red Cross."

6. Montle supervised the drafting of the Today's Investor article and approved it prior to publication, and Montle alone furnished the information contained in the Today's Investor Statements.

7. Contrary to the first Today's Investor Statement, VTS's actual Fluorognost sales (i.e., customer orders) during its first few months of sales averaged less than \$20,000 per month (with no single month above \$30,000), and its monthly revenues from sales of Fluorognost alone were approximately:

<u>Month (1992)</u>	<u>Revenues</u>
July	\$14,613.03
August	\$27,117.60
September	\$19,535.52
October	\$13,734.61

8. The second Today's Investor Statement -- that VTS's alleged \$50,000 monthly revenue from Fluorognost will "increase six to eight fold within six months and double that by the end of 1993" (i.e., \$600,000 to \$800,000 per month) -- was without reasonable basis in fact and grossly overstated VTS's reasonable expectations at that time.

9. Contrary to the third Today's Investor Statement, VTS employed only a single, inexperienced, telemarketer at the time of publication of the Today's Investor article.

10. Contrary to the fourth Today's Investor Statement, prior to and after completion

and publication of the Today's Investor article, VTS's Fluorognost price was four times that of its competitor's prices, was not competitive, and was not "reasonable."

11. Contrary to the fifth Today's Investor Statement, prior to and after completion and publication of the Today's Investor article, VTS experienced poor Fluorognost sales results, and Fluorognost was not an "easy sale."

12. Contrary to sixth Today's Investor Statement, the Red Cross never endorsed Fluorognost.

13. Prior to publication of the Today's Investor article, Montle was aware of the information contained in paragraphs 7 through 12 above, and Montle knew that the Today's Investor Statements were false and baseless.

14. In November and December 1992, the Today's Investor article was disseminated to at least 3,400 potential VTS investors and stock brokers, and Montle knew of the article's dissemination.

15. Montle made the Today's Investor Statements in connection with VTS's promotion of its securities to potential investors.

16. During the time period of the dissemination of the Today's Investor article, Montle and entities he controlled sold VTS stock and received in excess of \$260,000 in sale proceeds.

17. Montle employed means or instrumentalities of interstate commerce (either directly or through others) to draft, publish, and disseminate the Today's Investor Statements.

C. The Press Release

18. On January 26, 1993, VTS issued a press release describing sales and projected sales of Fluorognost (the "Press Release").

19. The Press Release contains the following false statements and baseless projections (the "Press Release Statements"):

January [1993] sales of Fluorognost HIV-1 IFA test will approach or possibly exceed \$200,000, according to Paul Montle, VTS president. Montle said this represents a 300% increase since September [1992] when VTS logged about \$50,000 in Fluorognost sales . . . "A few months ago, we stated that our average monthly sales target would be \$600,000 by the end of 1993. I really did not expect us to be at \$200,000 until March or April. Needless to say, Fluorognost is garnering rapid acceptance with notable institutions . . ."

20. Montle supervised the drafting of the Press Release and approved it prior to publication, and Montle alone furnished the information contained in the Press Release Statements.

21. Contrary to the Press Release, VTS Fluorognost sales as of January 26, 1993 (and as of January 31, 1993) were \$78,313, and the Press Release's projection that January VTS Fluorognost sales would approach or exceed \$200,000 was without reasonable basis in fact.

22. The Press Release's \$600,000 monthly Fluorognost sales projection was without reasonable basis in fact and was contrary to VTS's own internal Fluorognost sales goal of \$1.5 million for all of 1993.

23. Contrary to the Press Release's \$50,000 September 1992 Fluorognost sales figure, September 1992 VTS Fluorognost sales were actually \$18,250.

24. Contrary to the Press Release's statement that "Fluorognost is garnering rapid acceptance with notable institutions," VTS was encountering resistance from potential Fluorognost customers, due to its high price, lack of automation, and other factors.

25. Prior to publication of the Press Release, Montle was aware of the information set forth in paragraphs 21 through 23 above, and Montle knew that the Press Release Statements

were false and baseless.

26. The Press Release was disseminated to potential VTS investors and stockbrokers, and Montle knew of its dissemination.

27. Montle made the false and baseless statements in the Press Release in connection with VTS's sale of VTS stock.

28. Montle employed directly, or through others, means or instrumentalities of interstate commerce to draft, publish, and disseminate the Press Release.

D. On The Floor Article

29. An article entitled "Viral Testing Systems, *This Is The Stock Play In HIV Testing*" appeared in the May 1993 issue (Vol. 1, No. 1) of On The Floor (the "On The Floor article").

30. The On The Floor article contains the following false and baseless statements (the "On The Floor Statements"):

To get VTS to the point where it is now was not an inexpensive undertaking, but those who follow VTS feel that the bad earnings news is [sic] far behind the company. Indications of this came in January when the company announced it had posted \$200,000 in HIV test revenues for that month (VTS needs \$300,000 in monthly test sales to break even). All this revenue came from confirmation tests. . . By this time next year, VTS hopes to be selling 15,000 to 20,000 HIV tests monthly to public and private health-care facilities, which would give the company some hefty earnings.

31. Montle supervised the drafting of the On The Floor article and approved it prior to its publication, and Montle alone furnished the information contained in the On The Floor Statements.

32. The On The Floor article's projection that VTS would sell 15,000 to 20,000 Fluorognost test kits monthly by May 1994 was without reasonable basis in fact and grossly

overstated VTS's reasonable expectations at that time.

33. Contrary to the On The Floor article, VTS's January 1993 Fluorognost sales totaled only \$78,313.

34. Prior to publication of the On The Floor Article, Montle was aware of the information contained in paragraphs 32 and 33 above, and Montle knew that the On The Floor Statements were false and baseless.

35. The On The Floor article was disseminated to at least 800 potential VTS investors and stockbrokers, and Montle knew of its dissemination.

36. Montle employed directly, or through others, means or instrumentalities of interstate commerce to draft, publish, and disseminate the On The Floor article.

II. Lone Star Claims

37. On December 30, 1992, Montle formed Lone Star Casino Corporation ("Lone Star") as a wholly-owned subsidiary of VTS.

38. Lone Star initially focused on purchasing and operating a Colorado casino called "Papone's Palace."

39. On February 8, 1993, to effectuate a spin-off, Lone Star filed an initial registration statement with the Commission, and on March 29, April 16, and April 29, 1993, Lone Star filed amended registration statements (collectively hereinafter, the "Registration Statements"; individually hereinafter, "Registration Statement").

40. On May 3, the April 29 Registration Statement became effective.

41. The Registration Statements omit to state the following material information: they (1) fail to disclose a January 14, 1993 purchase of 1 million shares of Lone Star stock (the

"January 14 Stock Purchase") by four entities controlled by Ilan Arbel (the "Arbel Entities"); (2) fail to disclose a March 19, 1993 purchase of 700,000 shares of Lone Star stock by Signature Equities Agency (the "March 19 Stock Purchase"); and (3) fail to disclose that Ilan Arbel would control more than 5% of Lone Star's stock (as a result of the January 14 Stock Purchase).

42. The Registration Statements contain the following false statements: they (1) falsely list the amount of Lone Star stock to be distributed (by omitting the January 14 Stock Purchase and the March 19 Stock Purchase); (2) falsely state that VTS owned all of Lone Star's outstanding shares; and (3) falsely state that an April 23 \$1 million payment to Lone Star was a loan from Josef Hettrich (a principal of Signature Equities Agency), rather than proceeds of the March 19 Stock Purchase.

43. Montle signed the Registration Statements and otherwise knew of the false statements and omissions contained in the Registration Statements (described in the preceding two paragraphs) prior to filing them with the Commission.

44. VTS's Form 10-K filed March 30, 1993 (the "March 30 10-K"), VTS's Form 10-Q filed May 14, 1993 (the "May 14 10-Q"), and Lone Star's Form 10-Q filed June 4, 1993 (the "June 4 10-Q") also fail to disclose the January 14 Stock Purchase and the March 19 Stock Purchase.

45. The March 30 10-K and May 14 10-Q also falsely describe Lone Star as a "wholly-owned subsidiary" of VTS, and the June 4 10-Q falsely states that Lone Star placed 2,475,00 shares of its common stock pursuant to Regulation S *after* May 3, 1993.

46. Montle signed the March 30 10-K and otherwise knew of the false statements and omissions contained in the March 30 10-K, May 14 10-Q, and June 4 10-Q (described in the

preceding two paragraphs) prior to filing them with the Commission,

47. Montle intentionally omitted the January 14 Stock Purchase from VTS's account books and records.

48. Montle intentionally failed to disclose the January 14 Stock Purchase to Lone Star's counsel in charge of drafting the Registration Statements ("Lone Star Counsel").

49. Montle had Lone Star execute sham stock purchase agreements with the Arbel Entities dated May 6, 1993, and falsely altered Lone Star's August 26, 1993 Board of Director minutes, to make it appear that the January 14 Stock Purchases took place on May 6, 1993 (after the effective date of the Registration Statements).

50. Montle sold the 1 million shares of Lone Star stock to the four Arbel Entities (rather than directly to Iian Arbel) to attempt to avoid Colorado gaming laws or regulations, which, as Montle understood them, required individuals who owned more than 5% of a gaming company to obtain a Colorado gaming license.

51. Montle intentionally failed to disclose the March 19 Stock Purchase to Lone Star's Counsel (including the April 23 \$1 million sale proceeds).

52. Montle had Lone Star create sham stock purchase agreements with Signature Equities dated May 7, 1993, and altered Lone Star's August 26, 1993 Board of Director minutes, to make it appear that the March 19 Stock Purchases took place on May 7, 1993 (after the effective date of the Registration Statements).

III. Titanic Claims

53. Prior to May 1993, Montle acquired a controlling block of stock in First Response Medical, Inc., a public "shell" company.

54. In the beginning of May 1993, First Response Medical changed its name to RMS Titanic, Inc. ("Titanic") and purchased Titanic Ventures, a partnership that purportedly owned the rights to salvage artifacts from the submerged Titanic ocean liner.

55. Immediately following the Titanic merger, Titanic had a total of 10,819,844 shares of common stock outstanding.

56. Immediately following the Titanic merger, 9,833,333 of Titanic's outstanding shares were newly-issued shares subject to at least a one-year trading restriction under Rule 144 of the Securities Act.

57. Titanic's remaining 986,511 shares were former First Response shareholder shares.

58. In the beginning of May 1993, Montle owned slightly over 500,000 of the 986,511 former First Response shares, Michael Herman ("Herman") owned 70,000 of them, and Elizabeth Culotta owned an additional 100,000.

59. By written agreements dated May 5, 1993, Herman and Elizabeth Culotta gave Montle exclusive sale control over their Titanic stock and half the proceeds of any future sales of their Titanic stock. Thus, during May-July 1993, Montle had exclusive sale control over at least 670,000 of the 986,511 potentially saleable Titanic shares.

60. Titanic entrusted to Montle and defendant Carol Martino ("Martino") the task of raising Titanic capital through Titanic Regulation S stock sales, and Martino entered into a "Financial Consulting Agreement" with Titanic for this purpose.

61. Montle and Martino also entered into their own agreement to work together on the Titanic Regulation S placements and to allocate between themselves the commissions for these placements.

62. The Titanic merger agreement further provides that, if by August 3, 1993, Titanic did not receive at least \$1 million from the Regulation S sales, Montle was obligated to sell all of his Titanic shares to Titanic for \$.01 per share (\$5,000).

63. Montle enlisted William Lowe ("Lowe") of Grady & Hatch, a broker dealer registered with the Commission, to act as the initial market maker for Titanic stock, and Lowe was the exclusive market maker for the first thirty days of Titanic stock trading.

64. Titanic stock began trading on May 5, 1993, and Lowe was the exclusive market maker for Titanic stock for at least its first thirty days of trading.

65. During the spring and summer of 1993, Montle orchestrated a scheme to manipulate the price of Titanic stock, in which Lowe and Martino participated. The core of Montle's Titanic stock manipulation scheme was to eliminate, or greatly reduce, for Lowe the supply and demand side risks normally associated with making a market in an over-the-counter security such as Titanic stock.

66. Working with Lowe, Montle set an arbitrarily high opening Titanic stock price of \$5.

67. In furtherance of Montle's scheme, Lowe fraudulently obtained clearance from the National Association of Securities Dealers to quote Titanic stock at over \$7 per share.

68. For at least the first thirty days of Titanic stock trading, Montle furnished virtually the entire supply of Lowe's Titanic stock.

69. Montle further attempted to control as much freely tradable Titanic stock as he could by purchasing it (through Herman) at pennies per share from unsuspecting former First Response stockholders (who were not aware that their Titanic stock at the time was trading for

over \$5 per share).

70. No later than June 16, 1993, Montle, Paul Culotta (a settled defendant), and Martino entered into an agreement to regulate their open market sales of Titanic stock to Lowe, to avoid driving down the price of Titanic stock.

71. Through their Titanic stock control agreements with Herman, Elizabeth Culotta, and Paul Culotta, Montle and Martino controlled a substantial percentage of the supply of freely tradable Titanic stock from May 5, 1993 through July 1993.

72. Montle, in conjunction with Martino, also insured Lowe against demand-side risk in his Titanic stock trading by purchasing Titanic stock themselves from Lowe and, when necessary, by providing him additional purchasers (i.e., Martino's Regulation S Titanic stock clients).

73. To further increase demand for Titanic stock, Martino and certain of her clients purchased significant quantities of Titanic stock on the open market at the same time as they were purchasing greatly-discounted Titanic stock from Martino pursuant to Regulation S of the Securities Act.

74. Montle conspired with Josef Hettrich to purchase large quantities of Titanic stock on the open market when necessary to maintain Titanic's stock price.

75. During the period June 4 through July 20, 1993, Lowe was the high bidder in Titanic stock (or tied for the high bidder) on 31 of the 32 trading days during that period and the sole high bidder on 13 of those days.

76. As a result of Montle's manipulative activities (described in the preceding paragraphs), Titanic's stock price opened at \$5 in May 1993, rose to over \$11 by July 1993, and

fell to \$6.50 by July 20, 1993, and to \$2.75 by October 22, 1993.

77. Pursuant to his agreements with Michael Herman and Elizabeth Culotta, and as a result of his Titanic stock manipulation scheme (described above), Montle received a total of at least \$187,459.25 from Herman and Culotta in Titanic stock sale proceeds.

CONCLUSIONS OF LAW

I. YTS Claims

1. Montle made the Today's Investor Statements, the Press Release Statements, and the On The Floor Statements.

2. The Today's Investor Statements, the Press Release Statements and the On The Floor Statements were materially false or misleading.

3. Montle acted with scienter in making the Today's Investor Statements, the Press Release Statements and the On The Floor Statements.

4. Montle used means or instrumentalities of interstate commerce in making the Today's Investor Statements, the Press Release Statements and the On The Floor Statements.

5. Montle made the Today's Investor Statements, the Press Release Statements, and the On The Floor Statements in connection with the purchase or sale of a security.

6. By making the Today's Investor Statements, the Press Release Statements and the On The Floor Statements, Montle violated § 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

7. By making the Today's Investor Statements, the Press Release Statements and the On The Floor Statements, Montle violated § 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

II. The Lone Star Claims

8. The Registration Statements, the March 30 10-K, the May 14 10-Q, and the June 4 10-Q fraudulently omit and misrepresent the January 14 Stock Purchase.

9. The March 29, April 16, and April 29 Registration Statements, and the March 30 10-K, the May 14 10-Q, and the June 4 10-Q fraudulently omit and misrepresent the March 19 Stock Purchase and the April 23, 1993 \$1 million payment to Lone Star (i.e., proceeds of the March 19 Stock Purchase).

10. Montle made the false statements and omissions referenced in paragraphs 9 and 10 above (collectively, the "Lone Star Misrepresentations").

11. Montle acted with scienter in making the Lone Star Misrepresentations.

12. The Lone Star Misrepresentations were material.

13. Montle used means or instrumentalities of interstate commerce in making the Lone Star Misrepresentations.

14. Montle made the Lone Star Misrepresentations in connection with the purchase or sale of a security.

15. By making the Lone Star Misrepresentations, Montle violated § 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240:10b-5.

16. By making the Lone Star misrepresentations, Montle violated § 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

17. Lone Star and VTS's books and records fraudulently omit or misrepresent the January 14 Stock Purchase.

18. Regarding the omission and misrepresentation of the January 14 Stock Purchase in Lone Star and VTS's books and records, Montle circumvented or failed to implement a system of

internal accounting controls at Lone Star and VTS, or knowingly falsified Lone Star's and VTS's books, records, and accounts.

19. By failing to implement a system of internal accounting controls at Lone Star and VTS (or by knowingly falsifying Lone Star's and VTS's books, records, and accounts), Montle violated § 13(b)(5) of the Exchange Act, 15 U.S.C. §§ 78m(b)(5) & (b)(2), and Rule 13b2-1, 17 C.F.R. § 240.13b2-1.

20. Montle was a control person of VTS.

21. By filing the Registration Statements, the March 30 Form 10-K, and the May 14 Form 10-Q (which contain the Lone Star Misrepresentations), VTS committed primary violations of § 13(a) of the Exchange Act, 15 U.S.C. § 78m(a), and Rules 12b-20, 13a-1, and 13a-13, 17 C.F.R. §§ 240.13a-1, 240.13a-13, and 12b-20.

22. By maintaining fraudulent books and records regarding the January 14 Stock Purchase, VTS committed primary violations of § 13(b)(2) of the Exchange Act, 15 U.S.C. § 78m(b)(2).

23. In addition to being directly liable regarding the Lone Star Misrepresentations and VTS's false books and records, Montle is liable regarding those violations as a control person of VTS under §§ 13(a) and 20(a) of the Exchange Act, 15 U.S.C. §§ 78m(a) & 78t(a).

III. The Titanic Manipulation Claim

24. Montle intentionally or willfully engaged in conduct designed to deceive or defraud Titanic investors by controlling or artificially affecting the price of Titanic stock during the period May 5, 1993 through July 20, 1993 (the "Manipulation Period").

25. By manipulating Titanic stock during the Manipulation Period, Montle violated §

10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-

5.

26. By manipulating Titanic stock during the Manipulation Period, Montle violated § 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

ENTITLEMENT TO RELIEF

In order to obtain a permanent injunction against future violations Plaintiff showed that Defendant previously had violated the securities laws and that there is a reasonable likelihood that he would violate the securities laws in the future. In order to assess the likelihood of future violations, the Court evaluated the totality of the circumstances surrounding the violations, including: the degree of scienter involved; the isolated or recurrent nature of the violation; the defendant's recognition of the wrongfulness of the conduct; the likelihood, given defendant's professional occupation, of future violations. Past violations may permit an inference that future violations will occur, and the possibility that the Defendant is not presently engaged in any violations of the securities laws does not preclude the Court from issuing a permanent injunction. *SEC v. Lorin*, 76 F.3rd 458 (2d Cir. 1996) The Court concluded that there is strong evidence that Defendant is likely to violate the securities laws in the future.

Furthermore, to prevent unjust enrichment and to deter others from violating the securities laws, the Court has broad equity powers to order Defendant to disgorge all illicit gains and impose prejudgment interest on those gains. In assessing whether to order pre-judgment interest, the Court may consider the degree of personal wrongdoing on the part of the defendant. Pre-judgment interest is calculated in accordance with the delinquent tax rate as established by the Internal Revenue Service, IRC § 6621(a)(2), and is assessed on a quarterly basis. *SEC v.*

Lorin, 877 F. Supp. 192, 201 (S.D.N.Y. 1995); *aff'd in part, vacated in part*, 76 F.3d 458 (2d Cir. 1996). Both **disgorgement and prejudgment interest** are appropriate in this case.

Plaintiff has also requested that the Court impose civil penalties. In the instant case, Defendant's violations involving fraud and deceit were numerous and ongoing. Further, Defendant's actions were knowing departures from the securities laws and created a significant risk of substantial loss to investors who purchased stock based on Defendants' fraudulent behavior. *See also SEC v. Rosenfeld*, 2001 WL 118612 (S.D.N.Y. Jan. 9, 2001). Accordingly, the Court will grant Plaintiff's motion with regard to civil penalties and impose upon Defendant a **\$50,000 penalty**.

As a result of Montle's violations of §§ **10(b), 13(a), and 13(b)** of the Exchange Act, 15 U.S.C. § 78j(b) & 78m(a) & (b), and Rules **10b-5, 12b-20, 13a-1, 13a-13, and 13b2-1** thereunder (17 C.F.R. §§ 240.10b-5, 240.13a-1, 240.13a-13, and 12b-20, and 13b2-1), and § **17(a)** of the Securities Act, 15 U.S.C. § 77q(a), the Commission is entitled to the following relief, and the Court hereby **ORDERS**:

a. Montle, his agents, servants, employees, and attorneys, and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, are permanently restrained and enjoined from future violations of § **17(a)** of the Securities Act, 15 U.S.C. § 77q(a), § **10(b)** of the Exchange Act, 15 U.S.C. § 78j(b), and **Rule 10b-5** thereunder, 17 C.F.R. § 240.10b-5;

b. Montle and his agents, servants, employees, and attorneys, and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, are permanently restrained and enjoined from

engaging in conduct that would render them liable pursuant to Section 20(a) of the Exchange Act, 15 U.S.C. § 78t(a), or otherwise, for violations of Sections 13(a) and 13(b)(2) of the Exchange Act, 15 U.S.C. §§ 78m(a) and 78m(b)(2), and Rules 12b-20, 13a-1 and 13a-13 thereunder, 17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-13;

c. Montle, his agents, servants, employees, and attorneys, and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, are permanently restrained and enjoined from future violations of § 13(b)(5) of the Exchange Act, 15 U.S.C. § 78m(b)(5), and Rule 13b2-1 thereunder, 17 C.F.R. § 240.13b2-1;

d. Within thirty (30) days of the date of this ORDER, Montle shall disgorge the \$187,459.25 that he obtained as a result of his Titanic manipulation scheme, plus \$177,633 in prejudgment interest accrued through July 12, 2001. Payment shall be made by U.S. postal money order, certified check, bank cashier's check, or bank money order payable to the order of the "United States Securities and Exchange Commission." This payment shall be transmitted to the Comptroller, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, under cover of a letter that identifies the defendant, the name and civil action number of this litigation, and the court in which it was brought. The cover letter also shall contain the investigation name (*In The Matter Of Certain Mergers And Regulation S Transactions*) and the case number assigned by the Commission staff (NY-6136), and shall identify the payment as disgorgement and prejudgment interest. A copy of the cover letter and of any money orders or checks, front and back, shall be simultaneously transmitted to Jack Kaufman, Senior Trial Counsel, Securities and Exchange Commission, 7 World Trade Center,

New York, New York 10048.

e. Within thirty (30) days of the date of this ORDER, Montle shall pay civil money penalties of \$50,000, pursuant to § 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and § 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3). Payment of the civil penalty shall be made by U.S. postal money order, certified check, bank cashier's check, or bank money order payable to the order of the "United States Securities and Exchange Commission." This payment shall be transmitted to the Comptroller, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, under cover of a letter that identifies the defendant, the name and civil action number of this litigation, and the court in which it was brought. The cover letter also shall contain the investigation name (*In The Matter Of Certain Mergers And Regulation S Transactions*) and the case number assigned by the Commission staff (NY-6136), and shall identify the payment as a civil penalty under Section 20(d) of the Securities Act and Section 21(d) of the Exchange Act. A copy of the cover letter and of any money orders or checks, front and back, shall be transmitted simultaneously to Jack Kaufman, Senior Trial Counsel, Securities and Exchange Commission, Seven World Trade Center, 13th Floor, New York, New York 10048; and

f. Montle is barred for a period of five years from the date of this ORDER from serving or acting as an officer or director of any issuer that has a class of securities registered under § 12 of the Exchange Act, 15 U.S.C. § 78l, or that is required to file reports pursuant to § 15(d) of the Exchange Act, 15 U.S.C. § 78o(d), pursuant to § 20(e) of the Securities Act, 15 U.S.C. § 77t(e), and § 21(d)(2) of the Exchange Act, 15 U.S.C. § 78u(d)(2).

Although not charged herein with violations of Regulation S under the Securities Act of

1933, as amended, the Court believes that the Defendant's downfall was connected with his introduction to and appreciation of the use of Regulation S to raise capital for the securities ventures herein. This device was utilized in a way that financed the activities and violations of the defendant.

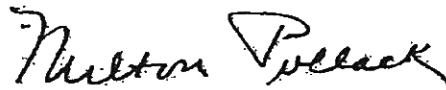
Accordingly, in the exercise of equitable powers, to deter the use of the means previously employed by defendant to raise capital, it is Ordered that in addition to the permanent injunction against future violations and the 5 year Bar order provided for in the Court's principal findings and conclusions herein, Defendant Paul J. Montle shall be also barred for a period of 5 years from any connection direct or indirect with or use or participation in sale of securities pursuant to Regulation S and D of the Securities Act of 1933, as amended.

There being no just reason for delay, pursuant to Fed. R. Civ. P. 54(b), the Clerk will be ordered to enter Judgment forthwith and without further notice.

The foregoing shall constitute the Findings and Conclusions thereon required by Fed. R. Civ. P. 52(a) and Judgment shall be entered thereon pursuant to Rule 58.

SO ORDERED.

July 12, 2001



Milton Pollack

Senior U.S. District Court Judge