



submitted a Motion for Summary Judgment; and the Court having considered the motions for summary judgment, the oppositions thereto, and the record as a whole; and it appearing that there is no genuine issue of material fact, the Court finds that the Commission is entitled to judgment as a matter of law on the claims in the Complaint;

The Court further finds that disgorgement of unlawful gains in the amount of \$277,547 to be imposed on Defendants Sanjay Saxena and Mumtaz Saxena jointly and severally and additional disgorgement of unlawful gains in the amount of \$27,156 to be imposed on Defendant Sanjay Saxena individually is supported by the evidence;

The Court further finds, upon review of the evidence submitted by the Commission on the calculation of prejudgment interest rates established quarterly by the Internal Revenue Service for money owed to the United States Treasury that the calculation is reasonable, and that the prejudgment interest figure of \$49,809 to be imposed on Defendants Sanjay Saxena and Mumtaz Saxena jointly and severally and the additional prejudgment interest figure of \$12,692 to be imposed on Defendant Sanjay Saxena individually is supported by the evidence; and

The Court further finds upon review of the evidence submitted by the Commission concerning the imposition of a civil monetary penalty that the violations by Defendants Sanjay Saxena and Mumtaz Saxena directly resulted in substantial losses to investors, and that based upon all of the facts and circumstances the civil monetary penalties imposed below on Defendants Sanjay Saxena and Mumtaz Saxena are appropriate.

**I.**

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that, pursuant to Fed. R. Civ. P. 56, the Commission's Motion for Summary Judgment is granted and Defendant Sanjay Saxena's Motion for Summary Judgment is denied.

**II.**

**IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that Defendants Sanjay Saxena and Mumtaz Saxena and each of their officers, 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 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 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 any means or instruments of transportation, any security for the purpose of sale or for 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, through the use or medium of any prospectus or otherwise, any security unless and until a registration statement has been 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], 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].

**III.**

**IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that Defendants Sanjay Saxena and Mumtaz Saxena and each of their officers, 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 [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.

IV.

**IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that Defendants Sanjay Saxena and Mumtaz Saxena and each of their officers, 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 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §240.10b-5] by, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails or of any facility of any national securities exchange, in connection with the purchase or sale of any security: (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.

V.

**IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that Defendants Sanjay Saxena and Mumtaz Saxena and each of their officers, 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 Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§80b-6(1) and 80b-6(2)] by, directly or indirectly, by use of the mails or any

means or instrumentality of interstate commerce: (a) employing any device, scheme, or artifice to defraud any client or prospective client; or (b) engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

**VI.**

**IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant Sanjay Saxena and each of his officers, agents, servants, employees, attorneys, successors or assigns, and all persons in active concert or participation with him who receive actual notice of this Final Judgment by personal service or otherwise, are permanently restrained and enjoined from violating Section 206(4) of the Advisers Act [15 U.S.C. §80b-6(4)] by, directly or indirectly, by use of the mails or any means or instrumentality of interstate commerce, engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative.

**VII.**

**IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that Defendants Sanjay Saxena and Mumtaz Saxena jointly and severally shall immediately disgorge the sum of \$277,547, representing the ill-gotten gains they received in connection with the violations described in the Complaint, plus prejudgment interest in the amount of \$49,809, for a total disgorgement amount of \$327,356 payable by Defendants Sanjay Saxena and Mumtaz Saxena jointly and severally, and that Defendant Sanjay Saxena individually shall immediately disgorge the additional sum of \$27,156, representing additional ill-gotten gains he received in connection with the violations described in the Complaint, plus prejudgment interest in the

amount of \$12,692, for a total additional disgorgement amount of \$39,848 payable by Defendant Sanjay Saxena individually. Defendants shall make these disgorgement payments within thirty (30) days after entry of this Final Judgment. The payments 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 payments shall be mailed to the Clerk of this Court at the U.S. Courthouse, One Courthouse Way, Boston, MA 02210, with a cover letter identifying Defendants Sanjay Saxena and Mumtaz Saxena, the name and number of this action, and the name of this Court, and copies of the payments and the 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.

#### VIII.

**IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that at such time as the monies are paid by Defendants Sanjay Saxena and Mumtaz Saxena to the Registry of the Court as ordered in paragraph VI above, Defendants Sanjay Saxena and Mumtaz Saxena shall relinquish all legal and equitable right, title and interest in such monies, and no part of such monies (nor any earnings thereon accruing after payment to the Court) shall be returned to Defendants Sanjay Saxena and Mumtaz Saxena, or to any of their officers, agents, servants, employees, attorneys, successors or assigns. The Commission may thereafter propose a plan of distribution of the disgorged funds.

**IX.**

**IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that, with respect to the Commission's request for the imposition of civil monetary penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. §77t(d)], Section 21(d)(3) of the Exchange Act [15 U.S.C. §78u(d)(3)], and Section 209(e) of the Advisers Act [15 U.S.C. §80b-9(e)], a penalty in the amount of \$304,703 is hereby imposed against Defendant Sanjay Saxena and a penalty in the amount of \$50,000 is hereby imposed against Defendant Mumtaz Saxena. Defendants shall make these payments within thirty (30) days after entry of this Final Judgment. The payments shall be made by money order, certified check or cashier's check made payable to the United States Securities and Exchange Commission. The payments 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 Defendants Sanjay Saxena and Mumtaz Saxena, the name and number of this action, and the name of this Court, and copies of the payments and the cover letter shall be mailed to Frank C. Huntington, Securities and Exchange Commission, 73 Tremont Street, Suite 600, Boston, MA 02108.

**X.**

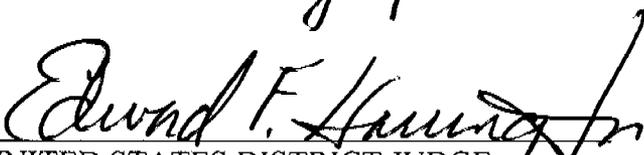
**IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that Defendants Sanjay Saxena and Mumtaz Saxena and each of their officers, agents, servants, employees, attorneys, successors or assigns, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise, are enjoined and restrained from destroying, mutilating, concealing, altering, or disposing of any

books, records, correspondence, contracts, agreements, assignments, receipts, obligations, tape recordings, computer media or other documents which relate to, pertain to, or contain evidence of funds or other assets of Defendants Sanjay Saxena and Mumtaz Saxena presently held by Defendants Sanjay Saxena and Mumtaz Saxena, under their control, or over which they exercise actual or apparent investment or other authority (including signatory authority), in whatever form such assets may exist and wherever located, and including any such assets which Defendants Sanjay Saxena or Mumtaz Saxena accumulate after entry of this Final Judgment.

**XI.**

**IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that this Court shall retain jurisdiction over this action for all purposes, including the implementation and enforcement of this Final Judgment.

SO ORDERED at Boston, Massachusetts, this 25 day of July, 2000.

  
UNITED STATES DISTRICT JUDGE