

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

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FILED
CLERK, U.S. DISTRICT COURT
JAN 3 2000
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

13 UNITED STATES DISTRICT COURT

14 FOR THE CENTRAL DISTRICT OF CALIFORNIA

15 SECURITIES AND EXCHANGE COMMISSION, Case No.

CAS
99-11539 LGB
(CTX)

16 Plaintiff,

17 vs.

18 S. JAY GOLDINGER,

19 Defendant.

ENTERED
CLERK, U.S. DISTRICT COURT
JAN - 7 2000
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

FINAL JUDGMENT AS TO
S. JAY GOLDINGER

ENTERED ON 10/1/00
JAN - 7 2000
CV

21 Defendant S. Jay Goldinger has entered a general appearance
22 herein; admitted the jurisdiction of this Court over him and over
23 the subject matter of this action; waived the filing of an answer
24 to the Complaint; waived the entry of findings of fact and
25 conclusions of law pursuant to Rule 52 of the Federal Rules of
26 Civil Procedure; and consented to the entry of this final judgment
27 without admitting or denying the allegations of the Complaint,
28 except (1) as to jurisdiction, which he admits, and (2) as to the

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1 findings set forth at Paragraph VIII, which he admits solely for
2 the purpose of any bankruptcy filing by or against him. It
3 further appearing that this Court has jurisdiction over Goldinger
4 and the subject matter hereof, it is hereby ordered, adjudged, and
5 decreed pursuant to Rule 54(b) of the Federal Rules of Civil
6 Procedure as follows:

7 I.

8 Goldinger, his agents, servants, employees, attorneys-in-fact,
9 successors, and assigns and all those persons in active concert or
10 participation with them who receive actual notice of this final
11 judgment by personal service or otherwise, and each of them, be and
12 they hereby are permanently restrained and enjoined from violating
13 Section 17(a) of the Securities Act of 1933 (Securities Act) [15
14 U.S.C. § 77q(a)] in the offer or sale of any securities by use of
15 any means or instruments of transportation or communication in
16 interstate commerce or by the use of the mails, directly or
17 indirectly:

- 18 A. to employ any device, scheme, or artifice to defraud; or
19 B. to obtain money or property by means of an untrue
20 statement of a material fact or omission to state a
21 material fact necessary in order to make the statements
22 made, in light of the circumstances under which they
23 were made, not misleading; or
24 C. to engage in any transaction, practice, or course of
25 business which operates or would operate as a fraud or
26 deceit upon the purchaser.

II.

1
2 Goldinger, his agents, servants, employees, attorneys-in-
3 fact, successors, and assigns and all those persons in active
4 concert or participation with them who receive actual notice of
5 this final judgment by personal service or otherwise, and each of
6 them, be and they hereby are permanently restrained and enjoined
7 from violating Section 10(b) of the Securities Exchange Act of
8 1934 (Exchange Act) and Rule 10b-5 promulgated thereunder [15
9 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5], directly or
10 indirectly, by the use of any means or instrumentality of
11 interstate commerce, or of the mails, or of any facility of any
12 national securities exchange:

13 A. to employ any device, scheme, or artifice to defraud;

14 B. to make any untrue statement of a material fact or to
15 omit to state a material fact necessary in order to make
16 the statements made, in light of the circumstances under
17 which they were made, not misleading; or

18 C. to engage in any act, practice, or course of business
19 which operates or would operate as a fraud or deceit
20 upon any person,

21 in connection with the purchase or sale of any security.

22 III.

23 Goldinger, his agents, servants, employees, attorneys-in-
24 fact, successors, and assigns and all those persons in active
25 concert or participation with them who receive actual notice of
26 this final judgment by personal service or otherwise, and each of
27 them, be and they hereby are permanently restrained and enjoined
28 from violating or aiding and abetting or causing violations of

1 A. knowingly circumventing or knowingly failing to
2 implement a system of internal accounting controls or
3 knowingly falsifying any book, record, or account
4 described in Section 13(b)(2) of the Exchange Act [15
5 U.S.C. § 78m(b)(2)]; or

6 B. directly or indirectly, falsifying or causing to be
7 falsified, any book, record, or account subject to
8 Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. §
9 78m(b)(2)(A)].

10 V.

11 Goldinger, his agents, servants, employees, attorneys-in-
12 fact, successors, and assigns and all those persons in active
13 concert or participation with them who receive actual notice of
14 this final judgment by personal service or otherwise, and each of
15 them, be and they hereby are permanently restrained and enjoined
16 from violating or aiding and abetting or causing violations of
17 Section 15(c)(1)(A) of the Exchange Act [15 U.S.C. §
18 78Q(c)(1)(A)], by making use of the mails or any means or
19 instrumentality of interstate commerce to effect any transaction
20 in, or to induce or attempt to induce the purchase or sale of, any
21 security (other than commercial paper, bankers' acceptances, or
22 commercial bills) otherwise than on a national securities exchange
23 of which it is a member by means of any manipulative, deceptive,
24 or other fraudulent device or contrivance, including:

25 A. any act, practice, or course of business which operates
26 or would operate as a fraud or deceit upon any person;
27 or

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1 B. the making of any untrue statement of a material fact
2 and any omission to state a material fact necessary in
3 order to make the statements made, in light of the
4 circumstances under which they are made, not misleading,
5 which statement or omission is made with knowledge or
6 reasonable grounds to believe that it is untrue or
7 misleading.

8 VI.

9 Goldinger shall pay disgorgement, including prejudgment
10 interest thereon, and civil penalties pursuant to Section 20(d) of
11 the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of
12 the Exchange Act [15 U.S.C. § 78u(d)(3)] in an amount and upon
13 such terms as may be determined by agreement of the parties or by
14 the Court upon motion brought by the Commission pursuant to the
15 Local Rules of this Court. Goldinger shall not, by way of defense
16 to such petition, challenge the validity of his consent or the
17 final judgment, contest the truth of the allegations in the
18 Complaint filed by the Commission, or otherwise raise as a defense
19 that he is not liable for such disgorgement or the payment of
20 civil penalties because he did not violate one or more of the
21 provisions of the Securities Act, the Exchange Act, or the rules
22 thereunder set forth in this final judgment. In connection with
23 the litigation of the appropriate amounts, if any, of disgorgement
24 and civil penalties to be imposed, the Commission may request
25 additional discovery and Goldinger shall provide additional
26 discovery responses, as well as testimony at deposition, hearing,
27 and/or trial as requested by the Commission.

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VII.

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2 In accordance with the terms of his consent, Goldinger agrees
3 and undertakes that at the request of the Commission or its staff
4 on reasonable notice and without service of a subpoena, he will (a)
5 cooperate with the Commission and its staff and truthfully disclose
6 all information with respect to his activities and the activities
7 of others about which the Commission or its staff may inquire; (b)
8 testify in all investigations and administrative and judicial
9 proceedings at which the Commission or its staff requests his
10 testimony; (c) make himself available at all reasonable times as
11 may be required by the Commission or its staff; and (d) produce any
12 documents within his possession, custody or control, domestic or
13 foreign, which are requested by the Commission or its staff. At
14 all times, Goldinger agrees to give truthful and accurate
15 information and testimony and not assert any evidentiary or other
16 privilege in connection with the undertakings set forth in this
17 paragraph other than the attorney-client privilege and the Fifth
18 Amendment privilege against self-incrimination. Goldinger
19 understands that his failure to testify truthfully or to comply
20 with the above undertakings may result in contempt proceedings or
21 charges of perjury and obstruction of justice.

VIII.

22
23 It is the intent of Goldinger and the Commission that this
24 final judgment be, and it hereby is, given preclusive effect in any
25 bankruptcy case filed by or against Goldinger. To effectuate this
26 intent, Goldinger admits solely for the purpose of such bankruptcy
27 proceedings that this final judgment establishes all the factual
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1 elements necessary to enable a court to make a finding that it is
2 nondischargeable pursuant to 11 U.S.C. § 523(a)(4).

3 IX.

4 There being no just cause for delay, the Clerk of the Court
5 is hereby directed, pursuant to Rule 54(b) of the Federal Rules of
6 Civil Procedure, to enter this final judgment forthwith.

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8 So ordered, this 3d day of January, ~~2000~~ at Los Angeles.

9
10 Christina A. Ample

11 UNITED STATES DISTRICT JUDGE
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