

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

OFFICE
IN CLERK'S OFFICE
U.S. DISTRICT COURT ED NY
★ DEC 16 2003 ★
CV-99-523 (TCP)
LONG ISLAND OFFICE

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

LARRY F. SMATH, GREGORY R. SALVAGE,
JOSEPH T. FALCONE, PETER L. COHEN,
SETH J. GLASER, and FRANK J. ZANGARA,

Defendants.

**CONSENT JUDGMENT OF
PERMANENT INJUNCTION AS TO DEFENDANT LARRY F. SMATH**

The Securities and Exchange Commission having filed a Complaint and Defendant Larry F. Smath ("Smath"), in the attached Consent of Defendant Larry F. Smath incorporated herein by reference, having entered a general appearance; consented to the Court's jurisdiction over him and the subject matter of this action; consented to entry of this Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction); and waived findings of fact and conclusions of law; waived any right to appeal from this Judgment; and it further appearing that the Court has jurisdiction over Smath and the subject matter of this action:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Smath, his agents, servants, employees, attorneys, assigns, and all persons in active concert or participation with them who receive actual notice of this 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 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated 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 FURTHER ORDERED, ADJUDGED, AND DECREED that Smath shall pay disgorgement of ill-gotten gains, if any, including prejudgment interest thereon, and/or civil penalties, if any, if so ordered by the Court pursuant to Section 21A of the Exchange Act [15 U.S.C. §78u-1], in the amount, and upon such terms, as may be determined by the Court upon motion of the Commission. Smath understands and agrees that in response to such motion, and in any proceeding relating to or arising from such motion, he will be precluded from arguing that he did not violate the federal securities laws in the manner described in the Complaint herein. Smath further understands and agrees that, for the purposes of such motion, and in any proceeding relating to or arising from such motion, the facts alleged in the Commission's Complaint shall be accepted as and deemed true by the Court, and that he may not challenge the validity of his Consent or this Judgment. Smath agrees that the Court may determine whether to impose disgorgement, if any, and/or civil penalties, if any, and the amounts thereof, on the basis of affidavits, declarations, deposition excerpts and exhibits.