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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

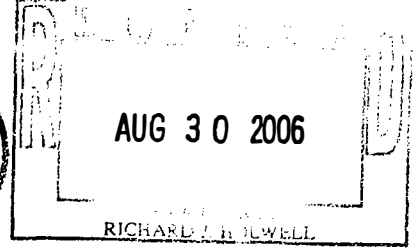
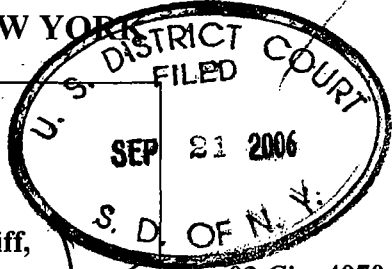
**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**MARTHA STEWART AND PETER
BACANOVIC,**

Defendants.



03 Civ. 4070 (RJH)

FINAL JUDGMENT
AND ORDER ON
CONSENT AGAINST
MARTHA STEWART

DC

The Securities and Exchange Commission ("Commission") having commenced this action by filing a Complaint on June 4, 2003, Defendant Martha Stewart ("Defendant") having entered a general appearance; admitted to service of the summons and Complaint on Defendant; consented to the Court's jurisdiction over Defendant and the subject matter of this action; executed the annexed consent of Defendant Martha Stewart ("Consent"); and consented to entry of this Final Judgment and Order on Consent Against Martha Stewart ("Final Judgment"), without admitting or denying the allegations of the Complaint; waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal

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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, in connection with the purchase or sale of any security:

- (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.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, 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 of 1933 ("Securities Act"), 15 U.S.C. § 77q(a), 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 use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the

statements made, in light of the circumstances under which they were made, not misleading; or

(c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$45,673 (Forty-Five Thousand and Six Hundred and Seventy-Three Dollars), representing losses avoided as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$12,389 (Twelve Thousand and Three Hundred and Eighty Nine Dollars), totaling \$58,062 (Fifty-Eight Thousand and Sixty-Two Dollars), and a civil penalty in the amount of \$137,019 (One Hundred and Thirty-Seven Thousand and Nineteen Dollars) pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Sections 21(d) and 21A of the Exchange Act, 15 U.S.C. §§ 78u(d)(3) and 78u-1. Defendant shall satisfy this obligation by paying \$195,081 (One Hundred and Ninety-Five Thousand and Eighty-One Dollars) within ten days to the Clerk of this Court, together with a cover letter identifying Martha Stewart as a defendant in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Final Judgment. Defendant shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action: Alexander M. Vasilescu, Regional Trial Counsel, Securities and Exchange Commission, Northeast Regional Office, 3 World Financial Center, Room 4300, New York, New York 10281-1022. By making this payment, Defendant relinquishes all legal and equitable right, title, and interest in such

funds, and no part of the funds shall be returned to Defendant. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961.

The Clerk shall deposit the funds into an interest bearing account with the Court Registry Investment System (“CRIS”) or any other type of interest bearing account that is utilized by the Court. These funds, together with any interest and income earned thereon (collectively, the “Fund”), shall be held in the interest bearing account until further order of the Court. In accordance with 28 U.S.C. § 1914 and the guidelines set by the Director of the Administrative Office of the United States Courts, the Clerk is directed, without further order of this Court, to deduct from the income earned on the money in the Fund a fee equal to ten percent of the income earned on the Fund. Such fee shall not exceed that authorized by the Judicial Conference of the United States.

The Commission may by motion propose a plan to distribute the Fund subject to the Court’s approval. Such a plan may provide that Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002, codified at 15 U.S.C. § 7246(a). Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendant shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Defendant’s payment of disgorgement in this action, argue that she is entitled to, nor shall she further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Defendant’s payment of a civil penalty in this action (“Penalty Offset”). If the court in any Related Investor Action grants such a Penalty Offset,

Defendant shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this Judgment. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Defendant by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], Defendant is prohibited, for a period of Five Years following entry of this Final Judgment, from:

- (A) Acting as a director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act, 15 U.S.C. § 781, or that is required to file reports pursuant to Section 15(d) of the Exchange Act, 15 U.S.C. § 78o(d) ("Issuer");
- (B) Accepting any position with any Issuer that would require or grant authority to sign or certify, on behalf of the Issuer, reports or forms filed or furnished by any Issuer pursuant to the Securities Act or the Exchange Act and any certifications or affirmations pursuant to Sections 302 and 906 of the Sarbanes-Oxley Act of 2002, codified at 15 U.S.C. § 7241 and 18 U.S.C. § 1350;

- (C) Participating in the compilation, approval, or audit of any financial statements of any Issuer, or the preparation of any disclosures concerning the financial condition of any Issuer;
- (D) Supervising or exercising influence over any Issuer's operations intended to:
 - (i) ensure and monitor compliance with laws, rules and regulations, (ii) conduct or assist with investigations into violations of laws, rules or regulations, (iii) conduct or assist with internal audit, or (iv) develop and maintain internal controls;
- (E) Communicating with any person described in 17 C.F.R. §243.100(b)(1) concerning the financial condition or results of operations of any Issuer; and
- (F) Serving or acting in the following capacities: (i) chief executive officer, (ii) chief financial officer, or (iii) member of any qualified legal compliance committee pursuant to 17 C.F.R. Part 205.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

VII.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules

of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

CONSENT OF DEFENDANT MARTHA STEWART

1. Defendant Martha Stewart (“Defendant”) acknowledges having been served with the Complaint in this action, enters a general appearance, and admits the Court’s jurisdiction over Defendant and over the subject matter of this action.

2. Without admitting or denying the allegations of the Complaint (except as to personal and subject matter jurisdiction, which Defendant admits), Defendant hereby consents to the entry of the Final Judgment and Order on Consent Against Martha Stewart (“Final Judgment”) attached hereto and incorporated by reference herein, which among other things:

- (a) permanently restrains and enjoins Defendant from violating Section 17(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] promulgated thereunder;
- (b) holds Defendant liable for disgorgement in the amount of \$45,673 (Forty-Five Thousand and Six Hundred and Seventy-Three Dollars), together with prejudgment interest thereon in the amount of disgorgement of \$12,389 (Twelve Thousand and Three Hundred and Eighty Nine Dollars), totaling \$58,062 (Fifty-Eight Thousand and Sixty-Two Dollars), and a civil penalty in the amount of \$137,019 (One Hundred and Thirty-Seven Thousand and Nineteen Dollars), for a total amount to be paid of \$195,081 (One Hundred and Ninety-Five Thousand and Eighty-One Dollars);

- (c) directs Defendant to pay the monies in paragraph 2(b) into the Court's account within 10 days of entry of the Final Judgment;
- (d) pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], prohibits Defendant, for a period of Five Years following entry of this Final Judgment, from:
 - a. Acting as a director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act, 15 U.S.C. § 78l, or that is required to file reports pursuant to Section 15(d) of the Exchange Act, 15 U.S.C. § 78o(d) ("Issuer");
 - b. Accepting any position with any Issuer that would require or grant authority to sign or certify, on behalf of the Issuer, reports or forms filed or furnished by the Issuer pursuant to the Securities Act or the Exchange Act and any certifications or affirmations pursuant to Sections 302 and 906 of the Sarbanes-Oxley Act of 2002, codified at 15 U.S.C. § 7241 and 18 U.S.C. § 1350;
 - c. Participating in the compilation, approval, or audit of any financial statements of any Issuer, or the preparation of any disclosures concerning the financial condition of the company;
 - d. Supervising or exercising influence over any Issuer's operations intended to: (i) ensure and monitor compliance with laws, rules and regulations, (ii) conduct or assist with investigations into violations of laws, rules or regulations, (iii) conduct or assist with internal audit, or (iv) develop and maintain internal controls;

- e. Communicating with any person described in 17 C.F.R. §243.100(b)(1) concerning the financial condition or results of operations of any Issuer; and
- f. Serving or acting in the following capacities: (i) chief executive officer, (ii) chief financial officer, or (iii) member of any qualified legal compliance committee pursuant to 17 C.F.R. Part 205.

3. Defendant acknowledges that the civil penalty paid pursuant to the Final Judgment may be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002, codified at 15 U.S.C. § 7246(a). Regardless of whether any such Fair Fund distribution is made, the civil penalty shall be treated as a penalty paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendant agrees that she shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Defendant's payment of disgorgement in this action, argue that she is entitled to, nor shall she further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Defendant's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Defendant agrees that she shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this action. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against

Defendant by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

4. Defendant agrees that she shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil penalty amounts that Defendant pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. Defendant further agrees that she shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts that Defendant pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

5. Defendant waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

6. Defendant waives the right, if any, to a jury trial and to appeal from the entry of the Final Judgment.

7. Defendant enters into this Consent voluntarily and represents that no threats, offers, promises, or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce Defendant to enter into this Consent.

8. Defendant agrees that this Consent shall be incorporated into the Final Judgment with the same force and effect as if fully set forth therein.

9. Defendant will not oppose the enforcement of the Final Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

10. Defendant waives service of the Final Judgment and agrees that entry of the Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendant of its terms and conditions. Defendant further agrees to provide counsel for the Commission, within thirty days after the Final Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Defendant has received and read a copy of the Final Judgment.

11. Consistent with 17 C.F.R. 202.5(f), this Consent resolves only the claims asserted against Defendant in this civil proceeding. Defendant acknowledges that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Defendant waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendant further acknowledges that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative

proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this action, Defendant understands that she shall not be permitted to contest the factual allegations of the complaint in this action.

12. Defendant understands and agrees to comply with the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegation in the complaint or order for proceedings." 17 C.F.R. § 202.5. In compliance with this policy, Defendant agrees: (i) not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis; and (ii) that upon the filing of this Consent, Defendant hereby withdraws any papers filed in this action to the extent that they deny any allegation in the complaint. If Defendant breaches this agreement, the Commission may petition the Court to vacate the Final Judgment and restore this action to its active docket. Nothing in this paragraph affects Defendant's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.

13. Defendant hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorney's fees or other fees, expenses, or costs expended by Defendant to defend against this action. For these purposes, Defendant agrees that Defendant is not the prevailing party in this action since the parties have reached a good faith settlement.

14. Defendant agrees that the Commission may present the Final Judgment to the Court for signature and entry without further notice.

15. Defendant agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Judgment.

Dated: July 26, 2006 By: Martha Stewart
Martha Stewart

State of NY)
County of NY) ss.:

On this 26th day of July, 2006, before me personally came Martha Stewart, to me known and known to me to be the person who executed the foregoing Consent of Defendant Martha Stewart and she acknowledged to me that she executed the same.

JOHN R. CUTI
Notary Public, State of New York
No. 02CU6035446
Qualified in New York County
Commission Expires Feb. 8, 2010

John R. Cuti
Notary Public
Commission expires:

SO ORDERED:

Date: August 28, 2006
New York, New York

Ralph J. Hohmann
United States District Judge

Approved as to form:

Dennis J. Block
Dennis J. Block, Esq.
Cadwalader, Wickersham & Taft LLP
One World Financial Center
New York, New York 10281
(212) 504-6051
Attorney for Defendant Martha Stewart

THIS DOCUMENT WAS ENTERED
ON THE DOCKET ON 9/21/06