

1 Sandra J. Harris, Cal. Bar # 134153
Aimee Dominguez-Silvers, Cal. Bar # 145106
2 Diana K. Tani, Cal. Bar # 136656
E. David Hwa, Cal. Bar # 131857

3 Attorneys for Plaintiff
4 Securities and Exchange Commission
Valerie Caproni, Regional Director
5 5670 Wilshire Boulevard, 11th Floor
Los Angeles, California 90036-3648
6 (323) 965-3998

ENTERED
CLERK, U.S. DISTRICT COURT
OCT - 2 2000
CENTRAL DISTRICT OF CALIFORNIA
BY

FILED
SEP 29 2000
CENTRAL U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

Send
ENTER
NOV 86

7 UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

LOGGED

2000 SEP 27 10:08 AM

CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES

00-10351

R JWJX

12 SECURITIES AND EXCHANGE
COMMISSION,

Case No.

13 Plaintiff,

JUDGMENT OF PERMANENT
INJUNCTION AND OTHER RELIEF
AGAINST DEFENDANT RICHARD I.
BERGER

14 v.

15 RICHARD I. BERGER and DONNA M.
16 RICHARDSON,

17 Defendants.

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

19 Plaintiff Securities and Exchange Commission ("Commission"), having filed and
20 served upon Defendant Richard I. Berger ("Berger") a Summons and Complaint in this matter
21 and Berger, having admitted service upon him of the Summons and Complaint in this action
22 and the jurisdiction of this Court over him and over the subject matter of this action; having
23 been fully advised and informed of his right to a judicial determination of this matter; having
24 waived the entry of findings of fact and conclusions of law as provided by Rule 52 of the
25 Federal Rules of Civil Procedure; having consented to the entry of this Judgment of
26 Permanent Injunction and Other Relief Against Defendant Richard I. Berger ("Judgment"),
27 without admitting or denying the allegations in the Complaint, except as specifically set forth

28 * Docketed
Copies / NTC Sent
JS - 5 / JS - 6
JS - 2 / JS - 3
CLSD

OCT 02 2000

3

1 in the Consent of Defendant Richard I. Berger to Entry of Judgment of Permanent Injunction
2 and Other Relief ("Consent"); and it appearing that no notice of hearing upon the entry of this
3 Judgment being necessary; and the Court being fully advised in the premises, and there being
4 no just reason for delay:

5 I.

6 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Berger and his
7 agents, servants, employees and attorneys, and all persons in active concert or participation
8 with any of them, who receive actual notice of this Judgment, by personal service or
9 otherwise, and each of them, are permanently restrained and enjoined from, directly or
10 indirectly, in the offer or sale, and in connection with the purchase or sale, of any security, by
11 the use of any means or instrumentality of interstate commerce or of the mails, or of any
12 facility of any national securities exchange:

- 13 A. employing any device, scheme, or artifice to defraud;
- 14 B. making any untrue statement of a material fact or omitting to state a material
15 fact necessary in order to make the statements made, in the light of the
16 circumstances under which they were made, not misleading; or
- 17 C. engaging in any act, practice, or course of business which operates or would
18 operate as a fraud or deceit upon any person;

19 in violation of Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C.
20 § 77q] and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15
21 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

22 II.

23 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Berger and his
24 agents, servants, employees and attorneys, and all persons in active concert or participation
25 with any of them, who receive actual notice of this Judgment, by personal service or
26 otherwise, and each of them, are permanently restrained and enjoined from, directly or
27 indirectly:

28 *

1 causing the filing of a required periodic report with the Commission containing
2 any untrue statement of material fact or omitting to state a material fact required
3 to be stated or necessary in order to make the statements made, in light of the
4 circumstances under which they were made, not misleading;
5 in violation of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20,
6 13a-1 and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-13].

7 III.

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Berger and his
9 agents, servants, employees and attorneys, and all persons in active concert or participation
10 with any of them, who receive actual notice of this Judgment, by personal service or
11 otherwise, and each of them, are permanently restrained and enjoined from, directly or
12 indirectly:

- 13 A. causing the failure to make and keep accurate books, records, and accounts
14 which, in reasonable detail, accurately and fairly reflect financial transactions
15 and disposition of assets;
- 16 B. directly, or indirectly, falsifying, or causing to be falsified books, records or
17 accounts subject to Section 13(b)(2)(A) of the Exchange Act;
- 18 C. directly or indirectly, making or causing to be made, or causing another person
19 to omit to state, a materially false or misleading statement, or omitting to state a
20 material fact in order to make statements made, in light of the circumstances
21 under which such statements were made, not misleading to an accountant in
22 connection with (1) an audit or examination of financial statements required to
23 be made pursuant to the Exchange Act regulations, or (2) the preparation or
24 filing of reports or documents required to be filed with the Commission
25 pursuant to Exchange Act regulations or otherwise;

26 in violation of Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)] and
27 Rules 13b2-1 and 13b2-2 thereunder [17 C.F.R. §§ 240.13b2-1 and 240.13b2-2].

28 *

IV.

1
2 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Berger and his
3 agents, servants, employees and attorneys, and all persons in active concert or participation
4 with any of them, who receive actual notice of this Judgment, by personal service or
5 otherwise, and each of them, are permanently restrained and enjoined from, directly or
6 indirectly:

7 causing the failure to devise and maintain a system of internal accounting
8 controls sufficient to provide reasonable assurances that financial statements are
9 prepared in conformity with Generally Accepted Accounting Principles;
10 in violation of Section 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)].

V.

11
12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Berger and his
13 agents, servants, employees and attorneys, and all persons in active concert or participation
14 with any of them, who receive actual notice of this Judgment, by personal service or
15 otherwise, and each of them, are permanently restrained and enjoined from, directly or
16 indirectly:

17 knowingly circumventing or knowingly failing to implement a system of
18 internal accounting controls or knowingly falsifying any book, record, or
19 account;
20 in violation of Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)].

VI.

21
22 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Berger, pursuant to
23 Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)] and Section 21(d)(2) of the Exchange
24 Act [15 U.S.C. § 78u(d)(2)], is prohibited, for a period of five years from the date of entry of
25 this Judgment, from serving as an officer or director of any issuer that has a class of securities
26 registered with the Commission pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l]
27 or that is required to file reports with the Commission pursuant to Section 15(d) of the
28 Exchange Act [15 U.S.C. § 78o(d)].

VII.

1
2 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Berger shall
3 provide all documents in his possession, custody or control to the Commission and disclose
4 under oath all information with respect to his activities and the activities of others about
5 which the Commission or its staff may inquire or request. Such production of documents and
6 disclosure of information by Berger shall be made upon reasonable notice in writing and
7 without the service of a subpoena and subject only to the good faith assertion of any
8 privileges recognizable pursuant to the provisions of Rule 501 of the Federal Rules of
9 Evidence or the United States Constitution and amendments thereto.

VIII.

10
11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Berger shall, during
12 the pendency of this action against any defendant, remain subject to the discovery provisions
13 of the Federal Rules of Civil Procedure which apply to parties, and, in addition, agrees and
14 undertakes that he will appear without the service of a subpoena to testify as a witness at the
15 trial of this action or at any related proceeding.

IX.

16
17 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Berger is assessed,
18 and shall pay to the Commission for delivery to the United States Treasury, a civil penalty in
19 the amount of \$25,000 under the Securities Enforcement and Penny Stock Reform Act of
20 1990 pursuant to Section 20(d) of the Securities Act [15 U.S.C. Section 77t(d)] and Section
21 21(d)(3) of the Exchange Act [15 U.S.C. Section 78(d)(3)]. Berger shall pay the above
22 penalty within 30 days of entry of this Judgment. This payment shall be made by cashier's
23 check, certified check or postal money order, payable to the United States Treasury, and shall
24 be transmitted to the Comptroller, Securities and Exchange Commission, Operations Center,
25 6432 General Green Way, Stop 0-3, Alexandria, VA 22312, under cover of a letter which
26 identifies the defendant, the name and case number of this litigation and the name of the
27 Court. A copy of the cover letter shall be simultaneously transmitted to counsel for the
28 Commission at its Los Angeles office.

X.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the provisions of the Consent filed concurrently with this Judgment are incorporated herein with the same force and effect as if fully set forth herein and that Berger shall comply with his Consent.

XI.

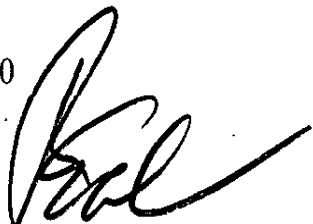
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction over this action for all purposes including to determine the liability of any remaining defendants in this action, to implement, enforce, and carry out the terms of the Judgment and all other orders and decrees which have been and may be entered herein, and to grant such other relief as the Court may deem necessary and just.

* * * * *

There being no just reason for delay, the Clerk of the Court is hereby directed, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, to enter this Judgment forthwith.

IT IS SO ORDERED.

DATED this 29th day of Sept., 2000


United States District Judge