

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

United States Courts  
Southern District of Texas  
FILED

DEC 19 2003

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Michael N. Milby, Clerk

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

Civil Action No.  
H-03-CV-1133

ROCKY MOUNTAIN ENERGY CORPORATION,  
a Nevada corporation,  
JOHN N. EHRMAN,  
W. RODERICK JOHNSON, AND  
MICHAEL L. LABERTEW

Defendants,

United States Courts  
Southern District of Texas  
ENTERED

DEC 30 2003

Michael N. Milby, Clerk of Court

and

JOHN W. EHRMAN, JR.,

Defendant Solely  
for the Purpose of  
Equitable Relief.

**FINAL JUDGMENT AS TO DEFENDANT MICHAEL L. LABERTEW**

The Securities and Exchange Commission having filed its First Amended Complaint and Defendant Michael L. Labertew ("Defendant") having entered a general appearance; consented to the Court's jurisdiction over Defendant and over the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the First Amended Complaint (except as to jurisdiction); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

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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 service or otherwise are permanently restrained and enjoined from violating Section 5 of the Securities Act of 1933 [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any applicable exemption:

- (a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;
- (b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; 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 any security through the use or medium of any prospectus or otherwise, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding of examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$62,088, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$2,525, and a civil penalty in the amount of \$25,000 pursuant to Section 20(d)(3) of the Securities Act [15 U.S.C. § 77t(d)]. Defendant shall satisfy this obligation by paying \$89,613 to the Clerk of this Court according the following schedule: \$10,000 within 30 days of the entry of the Final Judgment; \$15,000, plus post-judgment interest at the statutory rate pursuant to 28 U.S.C. § 1961, within three months of entry of the Final Judgment; \$15,000, plus post-judgment interest at the statutory rate pursuant to 28 U.S.C. § 1961, within six months of entry of the Final Judgment; \$15,000, plus post-judgment interest at the statutory rate pursuant to 28 U.S.C. § 1961, within nine months of entry of the Final Judgment; and \$34,613, plus post-judgment interest at the statutory rate pursuant to 28 U.S.C. § 1961, within 12 months of entry of the Final Judgment. Each payment shall be made with a cover letter identifying Michael L. Labertew 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. By making 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.

The Clerk shall deposit the funds into an interest bearing account with the Court Registry Investment System ("CRIS"). These funds, together with any interest and income earned thereon

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(collectively, the “Fund”), shall be held by the CRIS until further order of the Court. In accordance with 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. 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 punitive effect of the civil penalty, Defendant shall not, in any Related Investor Action, benefit from any offset or reduction of any investor’s claim by the amount of any Fair Fund distribution to such investor in this action that is proportionately attributable to the civil penalty paid by Defendant (“Penalty Offset”). If the court in any Related Investor Action grants such an offset or reduction, Defendant shall, within 30 days after entry of a final order granting the offset or reduction, 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.

III.

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.


IV.

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.


V.

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.

Dated: December 29, 2003

  
UNITED STATES DISTRICT JUDGE

Agreed as to form and content  
and approved for entry by:

  
Michael L. Labertew, Defendant

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