

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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SECURITIES AND EXCHANGE COMMISSION,  
  
Plaintiff,  
  
v.  
  
MARTIN J. DRUFFNER,  
JUSTIN F. FICKEN,  
SKIFTER AJRO,  
JOHN S. PEFFER,  
MARC J. BILOTTI and  
ROBERT E. SHANNON,  
  
Defendants.  
\_\_\_\_\_

Civil Action No. 03-12154-NMG

**FINAL JUDGMENT AS TO DEFENDANT JOHN S. PEFFER**

The Securities and Exchange Commission having filed an Amended Complaint in this action and Defendant John S. Peffer having entered a general appearance; consented to the Court's jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Amended Complaint (except as to jurisdiction); 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 Peffer and his 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, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (“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 Peffer and his 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 Peffer is liable for disgorgement of \$408,904, representing profits gained as a result of the conduct alleged in the Amended Complaint, together with prejudgment interest thereon in the amount of \$39,384, for a total of \$448,288. Based on Defendant Peffer's sworn representations in his Statement of Financial Condition dated July 27, 2005, and other documents and information submitted to the Commission, however, the Court is not ordering Defendant Peffer to pay a civil penalty, and payment of all but \$50,000 of the disgorgement and pre-judgment interest thereon is waived. Defendant Peffer shall satisfy this monetary obligation, plus post-judgment interest thereon in the amount of \$1,734.41, in three installments according to the following schedule:

<i>Payment Date</i>	<i>Amount Due</i>
3 days after Entry of Final Judgment	\$20,000
On or before October 1, 2006	\$16,128
On or before October 1, 2007	<u>\$15,606.41</u>
	\$51,734.41

Peffer shall also pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. §1961.

Each payment shall be made to the Clerk of Court, United States District Court for the District of Massachusetts, together with a cover letter identifying Defendant Peffer as a defendant in this action; setting forth the title and civil action number of this action and the name of the Court; and specifying that payment is made pursuant to this Final Judgment. Defendant Peffer shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action. By making each payment, Defendant Peffer relinquishes all legal and equitable right, title and interest in such funds, and no part of the funds shall be returned to Defendant Peffer.

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 by the CRIS 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 propose a plan to distribute the Fund subject to the Court's approval.

The determination not to impose a civil penalty and to waive payment of all but \$50,000 of the disgorgement and prejudgment interest is contingent upon the accuracy and completeness of Defendant Peffer's Statement of Financial Condition. If at any time following the entry of this Final Judgment the Commission obtains information indicating that Defendant Peffer's representations to the Commission concerning his assets, income, liabilities or net worth were

fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made, the Commission may, at its sole discretion and without prior notice to Defendant Peffer, petition the Court for an order requiring Defendant Peffer to pay the unpaid portion of the disgorgement, pre-judgment and post-judgment interest thereon, and the maximum civil penalty allowable under the law. In connection with any such petition, the only issue shall be whether the financial information provided by Defendant Peffer was fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made. In its petition, the Commission may move this Court to consider all available remedies, including, but not limited to, ordering Defendant Peffer to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of this Final Judgment. The Commission may also request additional discovery. Defendant Peffer may not, by way of defense to such petition: (1) challenge the validity of the Consent or this Final Judgment; (2) contest the allegations in the Amended Complaint filed by the Commission; (3) assert that payment of disgorgement, pre-judgment and post-judgment interest or a civil penalty should not be ordered; (4) contest the amount of disgorgement and pre-judgment and post-judgment interest; (5) contest the imposition of the maximum civil penalty allowable under the law; or (6) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

#### IV.

**IT IS HEREBY 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 Peffer shall comply with all of the undertakings and agreements set forth therein.

V.

**IT IS HEREBY 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.

VI.

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: 12/7/05

*Nathaniel M. Gorton*  
UNITED STATES DISTRICT JUDGE