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U S DISTRICT COURT E D N Y

★ JUL 05 2012 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

LONG ISLAND OFFICE

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SECURITIES AND EXCHANGE COMMISSION,
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Plaintiff,
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- against-
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SYMBOL TECHNOLOGIES, INC., et al.,
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Defendants.
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Civ. A. No. 04-2276 (SJF)

FINAL CONSENT JUDGMENT AS TO DEFENDANT JAMES DEAN

The Securities and Exchange Commission ("Commission") having filed a Complaint; Defendant James Dean ("Dean") having entered a general appearance and consented to the Court's jurisdiction over Dean and the subject matter of this action; and the Court having entered, with Dean's consent, a Partial Final Consent Judgment of Permanent Injunction and Other Relief as to Defendant James Dean ("Partial Consent Judgment"), which ordered, among other things, that (i) Dean be permanently restrained and enjoined from violating Sections 10(b), 13(a), 13(b)(2) and 13(b)(5) of the Securities and Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78j(b), 78m(a), 78m(b)(2) and 78m(b)(5)] and Rules 10b-5, 12b-20, 13a-1, 13a-13 and 13b2-1 thereunder [17 C.F.R. §§ 240.10b-5, 240.12b-20, 240.13a-1, 240.13a-13 and 240.13b2-1]; and (ii) judgment on the Commission's requests for monetary relief be deferred to a later date:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Dean is liable for disgorgement of \$2,500.00, representing profits gained as a result of the conduct alleged in the

Complaint together with prejudgment interest thereon in the amount of \$1822.00, for a total of \$4322.00. Dean shall satisfy this obligation by making payments to the Clerk of this Court in the following manner:

- (A) Dean shall pay \$360.16 within fourteen business days after entry of this Final Judgment (the "Final Consent Judgment").
- (B) Dean shall pay the remaining \$3961.84 in eleven equal monthly installments of \$360.16. The first monthly installment payment shall be paid 45 days from the entry of this Final Judgment and each succeeding payment shall be paid 30 days from the date on which the immediately preceding payment was due.
- (C) In the event that Dean defaults on any of the payments required by this paragraph, at any time thereafter the Commission, in its sole discretion, may declare the outstanding balance due and payable within fourteen days. On the date of such declaration, Dean shall consent to the entry of a Default Judgment noting his default and ordering the payment of the then outstanding balance and post-judgment interest thereon, plus costs and reasonable attorney's fees incurred in entering and collecting the Default Judgment.
- (D) Dean may prepay the outstanding balance at any time without penalty.

Each of the foregoing payments shall be accompanied by a cover letter addressed to the Clerk of the Court identifying James Dean 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. Dean shall simultaneously transmit photocopies of such payments and letters to the Commission's counsel in this action, Todd D. Brody, Esq., U.S. Securities and Exchange Commission, New York Regional Office, Three World Financial

Center, New York, NY 10281 and to John Graubard, Esq. U.S. Securities and Exchange Commission, New York Regional Office, Three World Financial Center, New York, NY 10281. By making such payments, Dean relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Dean. 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. Dean shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that based on the sentence Dean received pursuant to his guilty plea in *U.S. v. Razmilovic* and his cooperation with criminal authorities therein and in this related Commission enforcement action, the Court is not ordering Dean to pay a civil penalty. If at any time following the entry of this Final Consent Judgment as to James Dean ("Final Consent Judgment") the Commission obtains information indicating that Dean knowingly provided materially false or misleading information or materials to the Commission or in a related proceeding, the Commission may, at its sole discretion and without prior notice to Dean, petition the Court for an order requiring Dean to pay

a civil penalty. In connection with any such petition and at any hearing held on such a motion:

(a) Dean will be precluded from arguing that he did not violate the federal securities laws as alleged in the Complaint; (b) Dean may not challenge the validity of this Final Consent Judgment, his consent hereto, dated ___, 2012 and filed herewith (the "Consent"), the Partial Consent Judgment, his consent thereto, dated May 26, 2004 and filed therewith, or any related Undertakings; (c) the allegations of the Complaint, solely for the purposes of such motion, shall be accepted as and deemed true by the Court; and (d) the Court may determine the issues raised in the motion on the basis of affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence without regard to the standards for summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. Under these circumstances, the parties may take discovery, including discovery from appropriate non-parties.

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 Dean 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 Consent 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 Consent Judgment forthwith and without further notice.

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7/5/12

s/ Sandra J. Feuerstein

U.S.D.J.