



KAJ 2/23/06 10:40
3:06-CV-00352 SEC V. AGARWALA
5
CONSJGM.

FILED

06 FEB 22 PM 2:52

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:  DEPUTY

1 MICHAEL A. PIAZZA, Cal. Bar No. 235881
E-mail: PiazzaM@sec.gov
2 KELLY BOWERS, Cal. Bar No. 164007
E-mail: BowersK@sec.gov
3 VICTORIA A. LEVIN, Cal. Bar No. 166616
E-mail: LevinV@sec.gov
4 LYNN M. DEAN, Cal. Bar No. 205562
E-mail: DeanL@sec.gov
5

6 Attorneys for Plaintiff
Securities and Exchange Commission
7 Randall R. Lee, Regional Director
Briane Nelson Mitchell, Associate Regional Director
5670 Wilshire Boulevard, 11th Floor
8 Los Angeles, California 90036-3648
Telephone: (323) 965-3998
9 Facsimile: (323) 965-3908

10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA
12

13 SECURITIES AND EXCHANGE
COMMISSION,

14 Plaintiff,

15 v.

16 SANJIV S. AGARWALA,

17 Defendant.
18

Case No. '06CV 0352 J POR

**[PROPOSED] FINAL JUDGMENT
OF PERMANENT INJUNCTION
AND OTHER RELIEF AGAINST
SANJIV S. AGARWALA**

19
20 The Securities and Exchange Commission having filed a Complaint and
21 Defendant Sanjiv S. Agarwala having entered a general appearance; consented to
22 the Court's jurisdiction over Defendant and the subject matter of this action;
23 consented to entry of this Final Judgment without admitting or denying the
24 allegations of the Complaint (except as to jurisdiction); waived findings of fact and
25 conclusions of law; and waived any right to appeal from this Final Judgment:

26 I.

27 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant
28 and Defendant's agents, servants, employees, attorneys, and all persons in active

5¹

ENTERED ON 2/23/06

1 concert or participation with them who receive actual notice of this Final Judgment
2 by personal service or otherwise are permanently restrained and enjoined from
3 violating Section 17(a) of the Securities Act of 1933 (the "Securities Act"), 15
4 U.S.C. § 77q(a), in the offer or sale of any security by the use of any means or
5 instruments of transportation or communication in interstate commerce or by use
6 of the mails, directly or indirectly:

- 7 (a) to employ any device, scheme, or artifice to defraud;
- 8 (b) to obtain money or property by means of any untrue statement of a
9 material fact or any omission of a material fact necessary in order to
10 make the statements made, in light of the circumstances under which
11 they were made, not misleading; or
- 12 (c) to engage in any transaction, practice, or course of business which
13 operates or would operate as a fraud or deceit upon the purchaser.

14 **II.**

15 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
16 that Defendant and Defendant's agents, servants, employees, attorneys, and all
17 persons in active concert or participation with them who receive actual notice of
18 this Final Judgment by personal service or otherwise are permanently restrained
19 and enjoined from violating, directly or indirectly, Section 10(b) of the Securities
20 Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5
21 promulgated thereunder, 17 C.F.R. § 240.10b-5, by using any means or
22 instrumentality of interstate commerce, or of the mails, or of any facility of any
23 national securities exchange, in connection with the purchase or sale of any
24 security:

- 25 (a) to employ any device, scheme, or artifice to defraud;
- 26 (b) to make any untrue statement of a material fact or to omit to state a
27 material fact necessary in order to make the statements made, in the

28 ///

1 light of the circumstances under which they were made, not
2 misleading; or

3 (c) to engage in any act, practice, or course of business which operates or
4 would operate as a fraud or deceit upon any person.

5 **III.**

6 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
7 Defendant is liable for disgorgement of \$14,784, representing profits gained and
8 losses avoided as a result of the conduct alleged in the Complaint, together with
9 prejudgment interest thereon in the amount of \$398, for a total of \$15,182.
10 Defendant shall satisfy this obligation by paying \$15,182 within ten (10) business
11 days after entry of this Final Judgment by certified check, bank cashier's check, or
12 United States postal money order payable to the Securities and Exchange
13 Commission. The payment shall be delivered or mailed to the Office of Financial
14 Management, Securities and Exchange Commission, Operations Center, 6432
15 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be
16 accompanied by a letter identifying Sanjiv S. Agarwala as a defendant in this
17 action; setting forth the title and civil action number of this action and the name of
18 this Court; and specifying that payment is made pursuant to this Final Judgment.
19 A copy of the cover letter shall be simultaneously transmitted to counsel for the
20 Commission in this action at the Commission's Pacific Regional Office in Los
21 Angeles, California. Defendant shall pay post-judgment interest on any delinquent
22 amounts pursuant to 28 U.S.C. § 1961.

23 **IV.**

24 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
25 Defendant shall pay a civil penalty in the amount of \$29,568, pursuant to Section
26 21A of the Exchange Act. Defendant shall make this payment within ten (10)
27 business days after entry of this Final Judgment by certified check, bank cashier's
28 check, or United States postal money order payable to the Securities and Exchange

1 Commission. The payment shall be delivered or mailed to the Office of Financial
2 Management, Securities and Exchange Commission, Operations Center; 6432
3 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be
4 accompanied by a letter identifying Sanjiv S. Agarwala as a defendant in this
5 action; setting forth the title and civil action number of this action and the name of
6 this Court; and specifying that payment is made pursuant to this Final Judgment.
7 A copy of the cover letter shall be simultaneously transmitted to counsel for the
8 Commission in this action at the Commission's Pacific Regional Office in Los
9 Angeles, California. Defendant shall pay post-judgment interest on any delinquent
10 amounts pursuant to 28 U.S.C. § 1961.


11 **V.**

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

16 **VI.**

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

20
21 DATED: 2-22-06


UNITED STATES DISTRICT JUDGE

22
23 Presented by:

24 

25
26 Lynn M. Dean
27 Attorney for Plaintiff
28 Securities and Exchange Commission