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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA  
PHOENIX DIVISION

Securities and Exchange Commission,

Plaintiff,

vs.

U. S. Reservation Bank & Trust;  
et al.

Defendants,

and

Oyate Development, Inc.;  
et al.

Defendants Solely for

Purposes of Equitable Relief.

Case No.  
CIV-02-0581 PHX (EHC)

Agreed Judgment as to  
Defendant Edmund J.  
Smedley

**AGREED JUDGMENT AS TO  
DEFENDANT EDMUND J. SMEDLEY**

1 The Securities and Exchange Commission having filed a *Complaint* and Defendant  
2 Edmund J. Smedley (“Defendant”) having entered a general appearance; consented to the  
3 Court’s jurisdiction over Defendant and the subject matter of this action; consented to  
4 entry of this *Agreed Judgment* without admitting or denying the allegations of the  
5 *Complaint* (except as to jurisdiction); waived findings of fact and conclusions of law; and  
6 waived any right to appeal from this *Agreed Judgment*:

7 **I.**

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

- 16 (a) to employ any device, scheme, or artifice to defraud;
- 17 (b) to make any untrue statement of a material fact or to omit to state a  
18 material fact necessary in order to make the statements made, in the light of  
19 the circumstances under which they were made, not misleading; or
- 20 (c) to engage in any act, practice, or course of business which operates  
21 or would operate as a fraud or deceit upon any person.

22 **II.**

1 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and  
2 Defendant's agents, servants, employees, attorneys, and all persons in active concert or  
3 participation with them who receive actual notice of this *Agreed Judgment* by personal  
4 service or otherwise are permanently restrained and enjoined from violating Section 17(a)  
5 of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)] in the offer or sale of  
6 any security by the use of any means or instruments of transportation or communication  
7 in interstate commerce or by use of the mails, directly or indirectly:

8 (a) to employ any device, scheme, or artifice to defraud;

9 (b) to obtain money or property by means of any untrue statement of a  
10 material fact or any omission of a material fact necessary in order to make  
11 the statements made, in light of the circumstances under which they were  
12 made, not misleading; or

13 (c) to engage in any transaction, practice, or course of business which  
14 operates or would operate as a fraud or deceit upon the purchaser.

15 **III.**

16 IT IS FURTHER ORDERED ADJUDGED AND DECREED that Defendant and  
17 his agents, servants, employees, attorneys, and all persons in active concert or  
18 participation with him who receive actual notice of this *Agreed Judgment* by personal  
19 service or otherwise, and each of them, is restrained and enjoined from directly or  
20 indirectly, engaging in the business of effecting transactions in securities, in the form of  
21 investment contracts, or any other security, for his own account or for the account of  
22 others, while making use of the mails or any means or instrumentality of interstate

1 commerce to effect any transaction in, or to induce or attempt to induce the purchase or  
2 sale of, any security (other than an exempted security or commercial paper, banker's  
3 acceptances, or commercial bills) unless Defendant is registered as a broker or dealer in  
4 accordance with Section 15(b) of the Exchange Act [15 U.S.C. §78o(b)] and all  
5 applicable rules promulgated thereunder or is otherwise exempt from registration under  
6 Section 15(a)(1) of the Exchange Act [15 U.S.C. §78o(a)(1)].

#### 7 IV.

8 Upon motion of the Commission, the Court shall determine whether it is  
9 appropriate to order disgorgement of ill-gotten gains and/or a civil penalty pursuant to  
10 Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the  
11 Exchange Act [15 U.S.C. § 78u(d)(3)] and, if so, the amount(s) of the disgorgement  
12 and/or civil penalty. If disgorgement is ordered, Defendant shall pay prejudgment interest  
13 thereon, calculated from March 1, 2000, based on the rate of interest used by the Internal  
14 Revenue Service for the underpayment of federal income tax as set forth in 26 U.S.C.  
15 § 6621(a)(2). In connection with the Commission's motion for disgorgement and/or civil  
16 penalties, and at any hearing held on such a motion: (a) Defendant will be precluded from  
17 arguing that he did not violate the federal securities laws as alleged in the Complaint; (b)  
18 Defendant may not challenge the validity of the Consent or this *Agreed Judgment*; (c)  
19 solely for the purposes of such motion, the allegations of the Complaint shall be accepted  
20 as and deemed true by the Court; and (d) the Court may determine the issues raised in the  
21 motion on the basis of affidavits, declarations, excerpts of sworn deposition or  
22 investigative testimony, and documentary evidence, without regard to the standards for

1 summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. In  
2 connection with the Commission's motion for disgorgement and/or civil penalties, the  
3 parties may take discovery, including discovery from appropriate non-parties.

4 **V.**

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

8 **VI.**

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain  
10 jurisdiction of this matter for the purposes of enforcing the terms of this *Agreed*  
11 *Judgment*.

12 **VII.**

13 There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules  
14 of Civil Procedure, the Clerk is ordered to enter this *Agreed Judgment* forthwith and  
15 without further notice.

16 DATED this 25th day of September, 2006.

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Earl H. Carroll  
United States District Judge