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CLERK, U.S. DISTRICT COURT
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U.S. DISTRICT COURT
FEB 28 2001
CLERK, U.S. DISTRICT COURT
DEPUTY

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

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CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

12 SECURITIES AND EXCHANGE
13 COMMISSION,

14 Plaintiff,

15 v.

16 DAVID J. NAUGHTON, STEPHEN R.
17 KEENUM, MARK R. AVILA, STEPHEN R.
18 RAWLINGS, RICHARD C. REINING, ADAM
19 E. PECK, VICTOR R. GRAUAUG, RAFFI
20 T. KING, CHARLES F. HAGEMANN,
21 RONALD L. GAISER, JOSEPH L. HILL
22 AND MICHAEL R. TOMPKINS,

23 Defendants.

Case No. CV-00-07531 R (Ex)

[PROPOSED] FINAL JUDGMENT OF
PERMANENT INJUNCTION AND OTHER
RELIEF AGAINST DEFENDANT MICHAEL
R. TOMPKINS

THIS CONSTITUTES NOTICE OF ENTRY
AS REQUIRED BY FRCP, RULE 77(d).

22 Plaintiff Securities and Exchange Commission ("Commission"),
23 having filed and served upon Defendant Michael R. Tompkins
24 ("Tompkins") a Summons and Complaint in this action; Tompkins having
25 admitted service upon him of the Summons and Complaint in this
26 action and the jurisdiction of this Court over them and over the
27 subject matter of this action; having been fully advised and

28 Docketed of his right to a judicial determination of this action;
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1 having waived the entry of findings of fact and conclusions of law
2 as provided by Rule 52 of the Federal Rules of Civil Procedure;
3 having consented to the entry of this Final Judgment Of Permanent
4 Injunction And Other Relief Against Defendant Michael R. Tompkins
5 ("Final Judgment"), without admitting or denying the allegations in
6 the Complaint except as specifically set forth in the Consent Of
7 Defendant Michael R. Tompkins To Entry Of Final Judgment Of
8 Permanent Injunction And Other Relief ("Consent"); and no notice of
9 hearing upon the entry of this Final Judgment being necessary:

10 I.

11 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant
12 Tompkins and his agents, servants, employees and attorneys, and all
13 persons in active concert or participation with any of them, who
14 receive actual notice of this Final Judgment by personal service or
15 otherwise, and each of them, are permanently restrained and enjoined
16 from, directly or indirectly:

- 17 A. making use of any means or instruments of transportation
18 or communication in interstate commerce or of the mails to
19 sell any securities, through the use or medium of any
20 prospectus or otherwise, unless a registration statement
21 is in effect as to such securities;
- 22 B. carrying or causing to be carried through the mails or in
23 interstate commerce, by any means or instruments of
24 transportation, for the purpose of sale or for delivery
25 after sale, any securities, unless a registration
26 statement is in effect as to such securities; and
- 27 C. making use of any means or instruments of transportation
28 or communication in interstate commerce or of the mails to

1 offer to sell or offer to buy, through the use or medium
2 of any prospectus or otherwise, any securities, unless a
3 registration statement has been filed with the Commission
4 as to such securities, or while the registration statement
5 is the subject of a refusal order or stop order or (prior
6 to the effective date of the registration statement) any
7 public proceeding or examination under Section 8 of the
8 Securities Act [15 U.S.C. § 77h];

9 in violation of Sections 5(a) and 5(c) of the Securities Act of 1933
10 ("Securities Act") [15 U.S.C. §§ 77e(a) & 77e(c)].

11 **II.**

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant
13 Tompkins and his agents, servants, employees and attorneys, and all
14 persons in active concert or participation with any of them, who
15 receive actual notice of this Final Judgment by personal service or
16 otherwise, and each of them, are permanently restrained and enjoined
17 from, directly or indirectly, in the offer or sale of any
18 securities, by the use of any means or instruments of transportation
19 or communication in interstate commerce or by the use of the mails:

- 20 A. employing any device, scheme or artifice to defraud;
- 21 B. obtaining money or property by means of any untrue
22 statement of a material fact or any omission to state a
23 material fact necessary in order to make the statements
24 made, in the light of the circumstances under which they
25 were made, not misleading; or
- 26 C. engaging in any transaction, practice, or course of
27 business which operates or would operate as a fraud or
28 deceit upon the purchaser;

1 in violation of Section 17(a) of the Securities Act [15 U.S.C. §
2 77q(a)].

3 **III.**

4 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant
5 Tompkins and his agents, servants, employees and attorneys, and all
6 persons in active concert or participation with any of them, who
7 receive actual notice of this Final Judgment by personal service or
8 otherwise, and each of them, are permanently restrained and enjoined
9 from, directly or indirectly, in connection with the purchase or
10 sale of any security, by the use of any means or instrumentality of
11 interstate commerce, or of the mails, or of any facility of any
12 national securities exchange:

- 13 A. employing any device, scheme, or artifice to defraud;
14 B. making any untrue statement of a material fact or
15 omitting to state a material fact necessary in order to
16 make the statements made, in the light of the
17 circumstances under which they were made, not misleading;
18 or
19 C. engaging in any act, practice, or course of business
20 which operates or would operate as a fraud or deceit upon
21 any person;

22 in violation of Section 10(b) of the Securities Exchange Act of 1934
23 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17
24 C.F.R. § 240.10b-5].

25 **IV.**

26 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant
27 Tompkins and his agents, servants, employees and attorneys, and all
28 persons in active concert or participation with any of them, who

1 receive actual notice of this Final Judgment by personal service or
2 otherwise, and each of them, are permanently restrained and enjoined
3 from making use of the mails or any means or instrumentality of
4 interstate commerce to effect any transactions in, or to induce or
5 attempt to induce the purchase or sale of, any security without
6 being registered as a broker or dealer pursuant to Section 15(b) of
7 the Exchange Act [15 U.S.C. § 78o(b)], in violation of Section
8 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)].

9

V.

10 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant
11 Tompkins shall pay disgorgement in the amount of \$46,500
12 representing his gains from the conduct alleged in the Complaint,
13 plus prejudgment interest thereon calculated pursuant to 28 U.S.C. §
14 1961. Based upon Tompkins' sworn representations in his Statement
15 of Financial Condition dated October 13, 2000, and submitted to the
16 Commission, payment of all but \$25,000 in disgorgement is waived.
17 Additionally, based upon Tompkins' sworn representations in his
18 Statement of Financial Condition, this Court is not ordering
19 Tompkins to pay a civil penalty pursuant to Section 20(d)(1) of the
20 Securities Act [15 U.S.C. § 77t(d)(1)] and Section 21(d)(3) of the
21 Exchange Act [15 U.S.C. § 78u(d)(3)].

22

VI.

23 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant
24 Tompkins shall pay \$5,000.00 of the disgorgement amount within
25 thirty days of entry of this Final Judgment and pay the remainder in
26 eight equal quarterly payments of \$2,500.00, plus postjudgment
27 interest on each quarterly payment calculated pursuant to 28 U.S.C.
28 § 1961. The quarterly payments shall be due by the last business

1 date of each quarter beginning with the first full three-month
2 period after the entry of this Final Judgment. All payments shall
3 be made by cashier's check, certified check or postal money order
4 made payable to the Securities and Exchange Commission and shall be
5 transmitted to the Comptroller, Securities and Exchange Commission,
6 Operations Center, 6432 General Green Way, Stop 0-3, Alexandria,
7 Virginia, 22312, under cover of a letter that identifies the
8 defendant, the name and case number of this litigation, and the
9 court. A copy of the cover letter and the check or money order
10 shall be simultaneously transmitted to counsel for the Commission at
11 its Los Angeles office, located at 5670 Wilshire Boulevard, 11th
12 Floor, Los Angeles, California 90036.

13 **VII.**

14 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the waiver of
15 disgorgement and interest and the determination not to assess a
16 civil penalty are contingent upon the accuracy and completeness of
17 Tompkins' Statement of Financial Condition. If at any time
18 following the entry of this Final Judgment the Commission obtains
19 information indicating that Tompkins' representations to the
20 Commission concerning his assets, income, liabilities or net worth
21 were fraudulent, misleading, inaccurate or incomplete in any
22 material respect as of the time such representations were made, the
23 Commission may, at its sole discretion and without prior notice to
24 Tompkins, petition this Court for an order modifying this Final
25 Judgment to require payment of additional disgorgement, and
26 prejudgment and postjudgment interest thereon, and civil money
27 penalties. In connection with any such petition, the only issues
28 shall be whether the financial information provided by Tompkins was

1 fraudulent, misleading, inaccurate or incomplete in any material
2 respect as of the time such representations were made, and the
3 amount of the civil penalty to be imposed. In its petition, the
4 Commission may move this Court to consider all available remedies,
5 including, but not limited to, ordering Tompkins to pay funds or
6 assets, directing the surrender of any assets, or sanctions for
7 contempt of this Final Judgment, and the Commission may also obtain
8 additional discovery. Tompkins may not, by way of defense to such
9 petition, challenge the validity of his Consent or this Final
10 Judgment, contest the allegations in the Complaint filed by the
11 Commission, the amount of disgorgement and interest, or assert that
12 disgorgement, interest or payment of a civil penalty should not be
13 ordered.

14 **VIII.**

15 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the provisions
16 of the Consent filed concurrently with this Final Judgment are
17 incorporated herein with the same force and effect as if fully set
18 forth herein and that Tompkins shall comply with all terms of his
19 Consent.

20 **IX.**

21 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court
22 shall retain jurisdiction over this action for all purposes,
23 including to determine the liability of any remaining defendants in
24 this action, to implement and enforce the terms of this Final
25 Judgment and other orders and decrees which may be entered, and to
26 grant such other relief as this Court may deem necessary and just.


27 * * * * *

28 * * *

1 There being no just reason for delay, the Clerk of the Court is
2 directed, pursuant to Rule 54(b) of the Federal Rules of Civil
3 Procedure, to enter this Final Judgment.

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DATED: 2/28/01


UNITED STATES DISTRICT JUDGE
for MANUEL L. REAL

CERTIFICATE OF SERVICE

1
2 I, Magnolia M. Marcelo, am over the age of 18 years, not a
3 party to this action, and am a citizen of the United States. My
4 business address is 5670 Wilshire Boulevard, 11th Floor, Los
5 Angeles, California 90036. On February 23, 2001, at the direction
6 of a member of the bar of this Court, I served the following
7 document entitled **[PROPOSED] FINAL JUDGMENT OF PERMANENT INJUNCTION**
8 **AND OTHER RELIEF AGAINST DEFENDANT MICHAEL R. TOMPKINS** by causing
9 to be mailed true and correct copies thereof in sealed envelopes,
10 postage prepaid, to:

11
12 Michael B. Rainey, Esq.
13 Law Offices of Michael B. Rainey & Associates
21112 Ventura Boulevard, Suite 200
Woodland Hills, CA 91364
14 **Counsel for Defendant Charles F. Hagemann**

15 David J. Naughton
360 Ware Road
16 Hailey, Hertfordshire,
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17 David I. Lefkowitz, Esq.
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18 Santa Monica, CA 90401
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19 **Mark R. Avila and Stephen R. Keenum**

20 Steven Gourley, Esq.
c/o Dept. of Motor Vehicles
21 2415 First Avenue
Sacramento, CA 95818
22 **Counsel for Defendant**
Stephen R. Rawlings

23
24 Stephen R. Rawlings
c/o Law Offices of James Vickman
424 So. Beverly Drive
25 Beverly Hills, CA 90212-4414
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Joseph L. Hill
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and

Joseph L. Hill
13049 Oxnard Street, #13
Van Nuys, CA 91401

I declare under penalty of perjury that the foregoing is true
and correct.

Dated: February 23, 2001

Magnolia M. Marcelo
Magnolia M. Marcelo