

REC'D JUL 30 1998

SEP 15 1998

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

Civil Action No. 98-S-1636

SEP 14 1998

MES R. MANSPEAKER
CLERK

SECURITIES AND EXCHANGE COMMISSION
450 Fifth Street, N.W.
Washington, D.C. 20549,

Plaintiff,

v.

RONALD J. HOTTOVY,
JIMMY DUCKWORTH,
JOSEPH I. MORRIS, and
EUGENE A. BREITENBACH,

Defendants.

**FINAL JUDGMENT OF PERMANENT
INJUNCTION AS TO EUGENE A. BREITENBACH**

Plaintiff SECURITIES AND EXCHANGE COMMISSION (the "COMMISSION"),
having duly commenced this action by filing its Complaint, and defendant EUGENE A.
BREITENBACH ("BREITENBACH"), having in his CONSENT AND UNDERTAKING OF
EUGENE A. BREITENBACH (the "CONSENT") entered a general appearance herein, having
admitted the jurisdiction of this Court over him and over the subject matter of this action, having
waived the filing of an Answer to the Complaint and the entry of findings of fact and conclusions
of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, and without admitting or
denying any of the allegations of the Complaint, except as to jurisdiction, which he admits, and
without trial, argument or adjudication of any issue of fact or law, having consented to the entry
of this FINAL JUDGMENT OF PERMANENT INJUNCTION AS TO EUGENE A.

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BREITENBACH (the "FINAL JUDGMENT"), (i) permanently restraining and enjoining BREITENBACH from violating Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)] and Sections 10(b) and 13(b)(5) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78j(b) and 78m(b)(5)], and Exchange Act Rules 10b-5, 13b2-1 and 13b2-2 [17 C.F.R. §§ 240.10b-5, 240.13b2-1 and 240.13b2-2] thereunder, and (ii) ordering BREITENBACH to pay a total of \$93,561 consisting of: (a) \$33,600, representing disgorgement of profits predicated on the acts alleged in the Complaint, plus prejudgment interest thereon of \$9,961; and (b) \$50,000, representing a penalty pursuant to Section 21(d)(3) of the Exchange Act predicated on the acts alleged in the Complaint; and it further appearing that this Court has jurisdiction over BREITENBACH and the subject matter hereof, and the Court being fully advised in the premises:

I.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that BREITENBACH, his agents, servants, employees, attorneys and those persons in active concert or participation with them who receive actual notice of the FINAL JUDGMENT, by personal service or otherwise, and each of them, is permanently restrained and enjoined from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] by, directly or indirectly, using any means or instrumentality of interstate commerce, or of the mails to:

- (1) employ any device, scheme or artifice to defraud;
- (2) obtain money or property by means of any untrue statement of a material fact or any omission 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

(3) engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser, in connection with the offer or sale of any securities.

II.

IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED that BREITENBACH, his agents, servants, employees, attorneys and those persons in active concert or participation with them who receive actual notice of the FINAL JUDGMENT, by personal service or otherwise, and each of them, is permanently restrained and enjoined from violating Section 10(b) of the Exchange Act [15 U.S.C. § 77q(a)] by, directly or indirectly, using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange to:

- (1) employ any device, scheme or artifice to defraud;
 - (2) 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 light of the circumstances under which they were made, not misleading; or
 - (3) engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person,
- in connection with the purchase or sale of any security.

III.

IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED that BREITENBACH, his agents, servants, employees, attorneys and those persons in active concert or participation with them who receive actual notice of the FINAL JUDGMENT, by personal service or otherwise, and each of them, is permanently restrained and enjoined from knowingly circumventing or knowingly failing to implement a system of internal accounting controls; knowingly falsifying any book, record, or account of a reporting issuer; or, directly or indirectly, making or causing to be made a materially false or misleading statement, or omitting to state, or causing another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading to an accountant in connection with (1) any audit or examination of the financial statements of a reporting issuer or (2) the preparation or filing of any document or report required to be filed with the Commission, in violation of Section 13(b)(5) of the Exchange Act [15 U.S.C. §§ 78m(b)(5)], and Rules 13b2-1 and 13b2-2 [17 C.F.R. §§ 240.13b2-1 and 240.13b2-2], promulgated thereunder.

IV.

IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED that defendant BREITENBACH shall pay a total of \$93,561 consisting of: (a) \$33,600, representing disgorgement of profits predicated on the acts alleged in the Complaint, plus prejudgment interest thereon of \$9,961; and (b) \$50,000, representing a penalty pursuant to Section 21(d)(3) of the Exchange Act predicated on the acts alleged in the Complaint. Payment of \$93,561 shall be made

within thirty (30) days of the entry of the FINAL JUDGMENT. Payment shall be made by U.S. Postal money order, certified check, bank cashier's check, or bank money order, made payable to the "SECURITIES AND EXCHANGE COMMISSION" and bearing on its face the caption "SEC v. EUGENE A. BREITENBACH"; and shall be transmitted by certified mail (return receipt requested) to the Comptroller, U.S. Securities and Exchange Commission, Mail Stop 2-5, 450 Fifth Street, N.W., Washington, D.C. 20549; under cover of a letter that identifies the defendant, the name and case number of this action, the name of this Court and the COMMISSION's case number (HO-3075). A copy of the cover letter and the check or money order shall be transmitted simultaneously to Gregory S. Bruch, Esq. at the U.S. Securities and Exchange Commission, Mail Stop 7-3, 450 Fifth Street, N.W., Washington, D.C. 20549.

V.

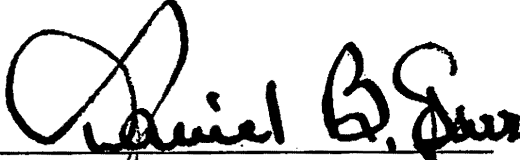
IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED that defendant BREITENBACH shall comply with his undertakings that, in connection with this action or any related judicial or administrative action or investigation undertaken by or on behalf of, or authorized by, the COMMISSION or to which the COMMISSION is a party, (a) he will produce documents and reasonably make himself available for interviews upon the request of the COMMISSION or its staff; on a travel cost reimbursable basis as provided for by applicable federal regulations; and (b) he will accept service by mail of subpoenas for any depositions, trials or hearings, and hereby waives the territorial limits on service set forth in Rule 45 of the Federal Rules of Civil Procedure.

VI.

IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED that the annexed CONSENT be, and the same hereby is, incorporated herein by reference with the same force and effect as if fully set forth herein.

VII.

There being no just cause for delay, the Clerk of the Court is hereby directed, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, to enter this FINAL JUDGMENT forthwith.


UNITED STATES DISTRICT JUDGE

Dated: Sept. 1, 1998

ENTERED
ON THE DOCKET

SEP 14 1998

JAMES R. MANSPEAKER
CLERK

BY ds