

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

Case No. 6:05-cv-1880-Orl-31KRS

**ROANOKE TECHNOLOGY CORP.,
DAVID L. SMITH, JR.,
THOMAS L. BOJADZIJEV and
BARRETT R. CLARK,**

Defendants,

SUSSEX AVENUE PARTNERS LLC,

Relief Defendant.

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**FINAL JUDGMENT OF PERMANENT INJUNCTION AND OTHER RELIEF AS
TO DEFENDANT BARRETT R. CLARK**

Defendant Barrett R. Clark by the Consent (filed at Doc. 104-2), without admitting or denying any of the allegations in the Complaint filed by the Securities and Exchange Commission, except that he acknowledges service of the Complaint against him and admits the jurisdiction of this Court over him and over the subject matter of this action, has agreed to the entry of this Final Judgment of Permanent Injunction and Other Relief against Barrett R. Clark (“Final Judgment”). Clark has furthermore waived findings of fact and conclusions of law and has waived any right to appeal from this Final Judgment. This Court, having accepted Clark’s Consent and having jurisdiction over Clark and the subject matter of this action, and being fully advised in the premises, orders as follows:

I.

PERMANENT INJUNCTION

IT IS ORDERED AND ADJUDGED that Clark, his directors, officers, agents, servants, employees, attorneys, and those persons in active concert or participation with him, and each of them, are restrained and enjoined from:

Section 5 of the Securities Act of 1933

A. Directly or indirectly, (a) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell securities in the form of units, common stock, warrants or any other securities, through the use or medium of any prospectus or otherwise, unless and until a registration statement is in effect with the Commission as to such securities; (b) carrying securities, in the form of units, common stock, warrants or any other securities, or causing them to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or for delivery after sale, unless and until a registration statement is in effect with the Commission as to such securities; or (c) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy, through the use or medium of any prospectus or otherwise, any securities, in the form of units, common stock, warrants or any other securities, unless a registration statement is filed with the Commission as to such securities, or while a registration statement filed with the Commission as to such security is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the

Securities Act, 15 § U.S.C. 77h, in violation of Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c), provided, however, that nothing in the foregoing portion of this injunction shall apply to any security or transaction which is exempt from the provisions of Section 5 of the Securities Act, 15 U.S.C. § 77e.

Section 17(a)(1) of the Securities Act of 1933

B. Directly or indirectly, by use of any means or instruments of transportation or communication in interstate commerce, or by the use of the mails, in the offer or sale of securities, knowingly or recklessly employing devices, schemes or artifices to defraud, in violation of Section 17(a)(1) of the Securities Act, 15 U.S.C. §77q(a)(1).

Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5

C. Directly or indirectly, by use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any securities, knowingly or recklessly: (i) employing devices, schemes or artifices to defraud; (ii) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (iii) engaging in acts, practices and courses of business which have operated, are now operating or will operate as a fraud upon the purchasers of such securities in violation of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder.

Sections 13(d) and 16(a) of the Securities Exchange Act of 1934 and Rules 13d-1, 13d-2 and 16a-3, thereunder

D. Directly or indirectly, violating Sections 13(d) and 16(a) of the Exchange Act, 15 U.S.C. §§ 78m(d) and 78p(a), and Rules 13d-1, 13d-2 and 16a-3, thereunder, by failing to file reports with the Commission that accurately and fairly reflect his beneficial ownership of any equity security of a class which is registered pursuant to Section 12 of the Exchange Act, 15 U.S.C. § 78l, and any material changes in such beneficial ownership.

Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933

E. Directly or indirectly, by use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any securities, (i) obtaining money or property by means of untrue statements of material facts or omissions to state material facts necessary to make the statements made, in light of the circumstance under which they were made, not misleading; or (ii) engaging in acts, practices and courses of business which have operated and will operate as a fraud or deceit upon purchasers and prospective purchasers of such securities, in violation of Sections 17(a)(2) and 17(a)(3) of the Securities Act, 15 U.S.C. §§ 77q(a)(2) and (3).

II.

PENNY STOCK BAR

IT IS FURTHER ORDERED AND ADJUDGED that pursuant to Section 21(d) of the Exchange Act, 15 U.S.C. §78u(d), Clark is prohibited, for three (3) years following the date of entry of this Final Judgment, from participating in an offering of a penny stock, including acting as a promoter, finder, consultant, agent or other person who

engages in activities with a broker, dealer or issuer for purposes of issuing, trading or inducing or attempting to induce the purchase or sale of any penny stock. A penny stock is any equity security that has a price of less than five dollars, except as provided in Rule 3a51-1 under the Exchange Act, 17 C.F.R. § 240.3a51-1.

III.

DISGORGEMENT & CIVIL PENALTY

IT IS FURTHER ORDERED AND ADJUDGED that Clark is liable for disgorgement of \$170,000, representing profits gained as a result of the conduct alleged in the Complaint, prejudgment interest in the amount of \$29,886.72, and a civil penalty in the amount of \$60,000 pursuant to Section 20(d) of the Securities Act, 15 USC § 77t(d); and Section 21(d) of the Exchange Act, 15 U.S.C. § 78(d)(3).

IV.

PAYMENT PLAN AND INSTRUCTIONS

IT IS HEREBY FURTHER ORDERED AND ADJUDGED that Clark shall satisfy the disgorgement and civil penalty ordered herein by paying a total of \$259,886.72 in five installments in accordance with the following schedule (“Payment Plan”): (1) \$52,471.68 shall be due and payable within ten days of the entry of the Final Judgment; (2) \$52,471.68 shall be due and payable within three months of the entry of the Final Judgment; (3) \$52,471.68 shall be due and payable within six months of the entry of the Final Judgment; (4) \$52,471.68 shall be due and payable within nine months of the entry of the Final Judgment; and (5) \$50,000 shall be due and payable within twelve months of the entry of the Final Judgment. If Clark fails to make any single payment, or part of any single payment, of the funds within the precise time specified for such payment, the installment payment terms of this Final Judgment shall no longer

apply, and the full amount of Clark's remaining unpaid disgorgement, prejudgment interest, and civil penalty shall be immediately due, owing and payable, plus post-judgment interest on such remaining unpaid amount calculated at the rate of interest set forth in Rule 600(b) of the Commission's Rules of Practice, 17 C.F.R. § 201.600(b), from the date of entry of the Final Judgment until such amount is paid in full.

All payments due under the Payment Plan shall be made to the Clerk of this Court, together with a cover letter identifying Clark 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. Clark shall simultaneously transmit photocopies of such payment and letter to: Roger Cruz, Senior Trial Counsel, U.S. Securities & Exchange Commission, 801 Brickell Avenue, Ste. 1800, Miami, FL 33131. By making this payment, Clark relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Clark. Clark shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961.

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 USC § 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. Such a plan may provide that Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Clark shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Clark's payment of disgorgement in this action, argue that he is entitled to, nor shall he further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Clark's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Clark shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this Final Judgment. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Clark by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

V.

INCORPORATION OF CONSENT

IT IS FURTHER ORDERED AND ADJUDGED that Clark shall comply with the provisions of the Consent attached hereto, and that such Consent is incorporated herein by reference as if fully set forth herein.

VI.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED AND ADJUDGED that this Court will retain jurisdiction over this matter and Clark in order to implement and carry out the terms of all Orders and Decrees that may be entered and/or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court, and will order other relief that this Court deems appropriate under the circumstances.

VII.

RULE 54(b) CERTIFICATION

IT IS FURTHER ORDERED AND ADJUDGED that 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 Judgment forthwith and without further notice.

DONE AND ORDERED on this 27th day of July, 2007 in Chambers at Orlando, Florida.

Copies to:
All counsel and parties of record.



GREGORY A. PRESNELL
UNITED STATES DISTRICT JUDGE