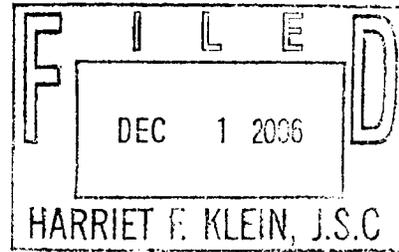


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SUPERIOR COURT OF NEW JERSEY  
 CHANCERY DIVISION - GENERAL EQUITY  
 ESSEX COUNTY  
 DOCKET NO. ESX-C-421-02

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 DAVID SAMSON :  
 ATTORNEY GENERAL OF NEW JERSEY :  
 on behalf of FRANKLIN L. :  
 WIDMANN, CHIEF OF THE NEW :  
 JERSEY BUREAU OF SECURITIES, :

Plaintiffs, :

v. :

PAUL F. JOYCE, :  
 RUDOLPH PIERRE, :  
 MICHAEL J. FLEYZOR, :  
 U.S. PAYTEL, INC., :  
 U.S. PAYTEL ATLANTIC, LLC, :  
 U.S. PAYTEL DELTA, LLC, :  
 U.S. PAYTEL, LLC, :  
 U.S. PAYTEL OPTIMA, LLC, :  
 U.S. PAYTEL PREFERRED, LLC, :  
 U.S. PAYTEL PREMIER, LLC, :  
 U.S. PAYTEL SELECT, LLC and :  
 U.S. PAYTEL SOUTHERN, LLC, :

Defendants. :

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Civil Action

: CONSENT JUDGMENT AS TO DEFENDANT  
 : MICHAEL J. FLEYZOR INCLUDING  
 : PERMANENT INJUNCTIVE RELIEF

This matter having been presented to the Court by Peter C. Harvey, Attorney General of New Jersey, attorney for Plaintiffs, (Deputy Attorney General James B. McKinney, Jr. appearing), on

behalf of Franklin L. Widmann, Chief of the New Jersey Bureau of Securities ("Bureau"), and Defendant Michael J. Fleyzor ("Fleyzor") (Mattleman, Weinroth & Miller, P.C. by William P. Rubley appearing); and Plaintiffs and Defendant having agreed to resolve any and all issues in controversy in this action with respect to the Defendant on the terms set forth in this Consent Judgment, which terms have, with the consent of the Chief of the Bureau ("Bureau Chief") and the Defendant, been reviewed and approved by the Court as confirmed by the entering of this Consent Judgment.

**FINDINGS AND CONCLUSIONS OF LAW**

The Bureau Chief makes the following findings of fact and conclusions of law against Fleyzor:

1. Paul F. Joyce ("Joyce") resides at 4272 Magnolia Street, West Palm Beach, Florida 33418.
2. Between on or about August 1985, and February 1989, Joyce was registered with the Bureau as an agent of four different broker dealer firms. Neither the records of the NASD nor the records of the Bureau list Joyce as being registered as a broker-dealer, registered representative, agent or investment adviser since February 1989.
3. Joyce's registration was revoked by NASD Order dated March 30, 1989 because of his failure to pay a \$3,000 administrative penalty resulting from a Decision and Offer of Settlement of a July 1988 NASD complaint which alleged that Joyce had made unauthorized trades in a customer's account.

4. In or about June 1993, Joyce entered into a Consent Order with the Commodity Futures Trading Commission ("CFTC") in which he agreed to a permanent injunction and to being barred from violation of the antifraud provisions of the Commodity Exchange Act. That Consent Order resolved an August, 1992 CFTC complaint alleging that Joyce had made false, deceptive and misleading representations in connection with his position as an introducing broker and manager at a commodities firm.

5. By Preliminary Order dated March 21, 1995, The State of Hawaii Department of Commerce and Consumer Affairs ordered Joyce to Cease and Desist from making any offer to sell, solicitation to purchase, sale, and/or transfer of any investment interest in a certain unregistered security. Joyce also was ordered to pay that Department a \$50,000 civil penalty. That order was made final by the Commissioner of Securities for the State of Hawaii on June 5, 1995.

6. By Consent Order dated April 4, 1996, entered by the Kansas Office of the Securities Commissioner, Joyce agreed to Cease and Desist from violating provisions of the Kansas Securities Act relating to the registration of securities and the registration of broker-dealers and agents in connection with the making of any further offers to sell or sales of securities within the State of Kansas.

7. By Summary Order dated May 7, 1996, the Securities Commission of the Commonwealth of Pennsylvania ordered Joyce to Cease and Desist from selling or offering for sale certain

unregistered securities and from violating other provisions of the Pennsylvania Securities Act.

8. Joyce is the President of U.S. Paytel, Inc. which maintains a headquarters office at 11000 Prosperity Farms Road, Palm Beach Gardens, Florida.

9. Rudolph Pierre ("Pierre"), who resides at 912 5<sup>th</sup> Avenue, Asbury Park, New Jersey, acted as an agent for U.S. Paytel, Inc., and took part with the other defendants in soliciting and selling unregistered securities to New Jersey residents. During the relevant time period as described herein, Pierre was employed as an insurance agent and was not registered to sell securities in the State of New Jersey.

10. Fleyzor, who resides at 157 Dorset Drive, Clark, New Jersey, acted as an agent for U.S. Paytel, Inc., and took part with the other defendants in soliciting and selling unregistered securities to New Jersey residents. During the relevant time period as described herein, Fleyzor was employed as a registered representative of TFS Securities.

11. U.S. Paytel, Inc. is a corporation formed in Florida on September 3, 1996. It has been inactive since September, 2000.

12. On the day after it was formed, that is, September 4, 1996, U.S. Paytel, Inc. created the first of several entities with "U.S. Paytel" as part of their names, by filing Articles of Organization with the Nevada Secretary of State.

13. Between September 4, 1996 and February 26, 1999, U.S. Paytel, Inc. organized at least 11 such "U.S. Paytel" entities by filing Articles of Organization with the Nevada Secretary of State.

After each entity was formed, the defendants solicited investors to acquire membership interests in the new entity and then held an initial meeting wherein managing members were purportedly elected.

14. As president of U.S. Paytel, Inc., Joyce was responsible for reviewing and approving subscription agreements for the "U.S. Paytel" entities and for issuing documentation confirming the sale of membership interests.

15. Pierre acted as an agent of Paytel, Inc., by soliciting sales of interests in the "U.S. Paytel" entities and forwarding the subscription agreements to defendant Joyce at the U.S. Paytel, Inc. offices in Florida.

16. Fleyzor solicited sales of interests in the "U.S. Paytel" entities and forwarded the subscription agreements to C&G Services, an entity with which Fleyzor had an agent agreement. TFS Securities, Fleyzor's employer, was unaware of Fleyzor's relationship with C&G Services and of his sale of interests in the U.S. Paytel entities.

17. The "U.S. Paytel" entities, and the dates they were formed by the defendants, are:

- a. U.S. Paytel, LLC, created on September 4, 1996;
- b. U.S. Paytel Select, LLC, created on December 31, 1996;
- c. U.S. Paytel Preferred, LLC, created on April 17, 1997;
- d. U.S. Paytel Atlantic, LLC, created on May 29, 1997;
- e. U.S. Paytel Southern, LLC, created on July 29, 1997;
- f. U.S. Paytel Premier, LLC, created on September 23, 1997;
- g. U.S. Paytel Delta, LLC, created on November 12, 1997;
- h. U.S. Paytel Optima, LLC, created on February 20, 1998;

- i. U.S. Paytel Optima II, LLC, created on May 20, 1998;
- j. U.S. Paytel Optima III, LLC, created on October 1, 1998;
- k. U.S. Paytel Gold Coast, LLC, created on February 26, 1999.

18. The business of all of the U.S. Paytel entities created by the defendants was represented and purported to investors to be the acquisition, management and sale of pay telephone routes, for a profit. The defendants purported to require that the investors take an active role in the management and operation of the pay telephone routes when said investors did not have the background, experience or ability to do so.

19. The defendants solicited the New Jersey investors and others to enter into investment contracts which were unsuitable for those investors because of, among other things, their age, and minimal income.

20. Because of the age, lack of relevant experience, and minimal income of these investors, and because of the location of the routes and management meetings, and the general nature of the business, the requirement imposed by the defendants on the investors that the investors take part in the management and operation of pay telephone routes was a sham designed by the defendants to create the appearance that the investors were actively involved in the defendants' business, rather than the passive investors they actually were.

21. It also was the intention of the defendants, among other things, to create the impression that the investment contracts

being acquired by their investors were not securities when they in fact were securities.

22. The defendants sought to avoid the New Jersey Securities Law registration requirements by creating numerous small U.S. Paytel LLC's, each with a limited number of subscriber/investors, and each with a seemingly independent management when in fact the management was not independent.

23. At least 23 New Jersey residents each invested between \$5,000 and \$30,000, totaling \$255,000, in 1 or more of the U.S. Paytel entities created by the defendants.

24. Each of the New Jersey investors received promotional materials about the Paytel entities which had been compiled by Mr. Joyce and U.S. Paytel, Inc. That material gave projections showing an estimated annual return on investment of approximately 13% in the first year growing to approximately 34% in the fifth year. Based on this information and other inducements and promotional materials distributed by the defendants, between October 1996 and June 1998, the 23 New Jersey residents invested their money in 8 of the 11 U.S. Paytel entities.

25. Each investor's subscription agreement was sent to Joyce by the investor, or forwarded to Joyce by U.S. Paytel's agents in New Jersey and other places.

26. Joyce accepted the subscription agreements on behalf of the U.S. Paytel entity and sent the investor a certificate representing the investment in the entity.

27. The membership interests in the U.S. Paytel entities were not registered with the Bureau.

28. Among the New Jersey investors were:

- a. Howardine Miller. At the time of her investment of \$20,000 in U.S. Paytel entities in 1996, Ms. Miller was 55 years old, was retired and was living on a fixed annual gross income of \$50,000. Ms. Miller had no technical expertise regarding pay telephones and no experience in management of a pay telephone business.
- b. Aline Laine. At the time of her investment of \$25,000 in U.S. Paytel entities in 1997, Ms. Laine was 45 years old and was employed as a nurse with an annual gross income of \$25,000. Ms. Laine had no technical expertise regarding pay telephones and no experience in management of a pay telephone business.
- c. Davilmar Napoleon. At the time of his investment of \$10,000 in U.S. Paytel entities in 1997, Mr. Napoleon was 61 years old, and had been employed as a janitor for 20 years with an annual gross income of \$40,000. Mr. Napoleon had no technical expertise regarding pay telephones and no experience in management of a pay telephone business.
- d. Pearl Johnson. At the time of her investment of \$30,000 in U.S. Paytel Southern, LLC in 1997, and her investment of \$10,000 in U.S. Paytel Delta, LLC, Ms. Johnson was 56 years old and a widowed housewife living on a fixed annual gross income of \$35,000. Ms. Johnson had no technical expertise regarding pay telephones and no experience in management of a pay telephone business.

e. Joseph Sacco. At the time of his investment of \$10,000 in U.S. Paytel, LLC, in 1996, Mr. Sacco was 69 years old, retired and living on a fixed annual gross income of approximately \$52,000. Mr. Sacco had no technical expertise regarding pay telephones and no experience in management of a pay telephone business.

29. Only about 3 of the 23 New Jersey investors in the Paytel entities have received a return on their investment or recovered the principal they invested.

30. The interests in the U.S. Paytel entities are securities, as defined in N.J.S.A. 49:3-49(m) of the New Jersey Uniform Securities Law, N.J.S.A. 49:3-47, et seq. ("Uniform Securities Law").

31. The defendants Joyce, Pierre, Fleyzor, U.S. Paytel, Inc., and the other U.S. Paytel entities offered and sold unregistered securities to, from or within New Jersey.

32. These securities offered or sold to, from, or within New Jersey by said defendants were not registered with the Bureau as required by N.J.S.A. 49:3-60 or exempt from registration.

33. The securities offered or sold to, from or within New Jersey by said defendants were required to be registered.

34. Each offer to sell and sale by said defendants of unregistered securities was made in violation of N.J.S.A. 49:3-60.

35. Each offer to sell and sale of unregistered securities constitutes a separate violation of N.J.S.A. 49:3-60 and is cause for the imposition of a civil monetary penalty for each such violation pursuant to N.J.S.A. 49:3-70.1.

36. "Agent" is defined in N.J.S.A. 49:3-49(b) to include "any individual other than a broker-dealer, who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities."

37. The defendants, Joyce, Pierre, Fleyzor, and U.S. Paytel, Inc., acted as agents of the U.S. Paytel entities in effecting or attempting to effect the sale of investment contracts.

38. Each offer to sell and sale of investment contracts by defendants without agent registration constitutes a separate and distinct violation.

39. The defendants, Joyce, Pierre, Fleyzor, and U.S. Paytel, Inc., acted as agents of the U.S. Paytel entities without being registered with the Bureau, in violation of N.J.S.A. 49:3-56(a).

40. Each instance of defendants, Joyce, Pierre, Fleyzor or U.S. Paytel, Inc., so acting constitutes a separate violation of N.J.S.A. 49:3-56(a) and is cause for the imposition of a civil monetary penalty for each such violation pursuant to N.J.S.A. 49:3-70.1.

41. Agents are required by N.J.S.A. 49:3-56 to register with the Bureau, unless exempt from such registration.

42. The U.S. Paytel entities named as defendants herein employed defendants Joyce, Pierre, Fleyzor and U.S. Paytel, Inc. as agents to represent them in effecting or attempting to effect the sale of their investment contracts. Joyce, Pierre, Fleyzor and U.S. Paytel, Inc. thus acted as agents as defined in N.J.S.A. 49:3-49(b).

43. Joyce, Pierre, Fleyzor and U.S. Paytel, Inc. were never registered with the Bureau as agents of the U.S. Paytel entities and were not exempt from such registration.

44. The employment of Joyce, Pierre, Fleyzor and U.S. Paytel, Inc. as agents constitutes a violation of N.J.S.A. 49:3-56(h).

45. Each offer and sale of the investment contracts by Joyce, Pierre, Fleyzor or U.S. Paytel, Inc. constitutes a separate violation of N.J.S.A. 49:3-56(h) and is cause for the imposition of a civil monetary penalty for each such violation pursuant to N.J.S.A. 49:3-70.1.

46. Defendants engaged in the acts and practices above.

47. Such acts and practices constitute violations of the Uniform Securities Law.

48. Defendant Fleyzor admits that the foregoing acts and practices constitute violations of the New Jersey Uniform Securities Law, N.J.S.A. 49:3-47, et seq. and consents to the form, content and entry of this Consent Judgment.

The Court granting judgment by consent to Plaintiffs imposing a permanent injunction against Defendant Fleyzor by reason that Defendant Fleyzor has engaged in, and that there is a reasonable likelihood that Defendant Fleyzor will again in the future engage in acts and practices constituting violations of provisions of the Uniform Securities Law and that Plaintiffs are entitled to such relief against Defendant Fleyzor and upon the consent of Mattleman, Weinroth & Miller, P.C. by William P. Rubley, Esq. to entry of a judgment imposing permanent injunctive relief against Defendant

3. Defendant Fleyzor individually and by or through any corporation, business entity, agent, employee, partner, director, officer, attorney, stockholder, successor, and/or any other person who is directly or indirectly under his control or direction, including, but not limited to, such persons in active concert or participation with him, as receive actual notice of this Judgment, by personal service or otherwise, are hereby permanently restrained and enjoined from employing persons to act as unregistered agents in the State of New Jersey in violation of N.J.S.A. 49:3-56(h).

4. Defendant Fleyzor individually and by and through any corporation, business entity, agent, employee, partner, director, officer, attorney, stockholder, successor, and/or any other person who is directly or indirectly under his control or direction, including, but not limited to, such persons in active concert or participation with him, as receive actual notice of this Judgment, by personal service or otherwise, are hereby permanently restrained and enjoined from acting as unregistered agents in the State of New Jersey in violation of N.J.S.A. 49:3-56(a).

5. Defendant Fleyzor individually and by or through any corporation, business entity, agent, employee, partner, director, officer, attorney, stockholder, successor, and/or any other person who is directly or indirectly under his control or direction, including, but not limited to, such persons in active concert or participation with him, as receive actual notice of this Judgment, by personal service or otherwise, are hereby permanently restrained and enjoined from any act or practice constituting a violation of

any provision of the Uniform Securities Law or any rule or order thereunder and from doing any acts in furtherance thereof.

6. Any person with actual or constructive notice of this Judgment who knowingly aids, abets, counsels, commands, or instructs any person or entity to perform any act prohibited by this Judgment or otherwise to violate any provision of this Judgment are hereby and shall be subject to punishment for violation of this Judgment.

#### GENERAL PROVISIONS

7. Nothing in this Consent Judgment shall in any manner be construed to limit the rights of any persons who may have a claim against Defendant Fleyzor.

8. This Consent Judgment applies to and is binding upon Defendant Fleyzor.

9. The parties acknowledge that New Jersey law shall govern the terms and provisions of this Consent Judgment.

10. The parties represent that an authorized representative of each has signed this Consent Judgment with full knowledge, understanding and acceptance of its terms and that this person has done so with authority legally to bind the respective party.

11. This Consent Judgment constitutes the entire agreement between the parties with respect to its subject matter. Any addition, deletion or change to this Consent Judgment must be in writing and signed by all the parties to be bound and approved and signed by the Court.

12. This Consent Judgment is entered into by the parties as their own free, knowing and voluntary act and with full knowledge

and understanding of the obligations and duties imposed by this Consent Judgment.

13. The parties have negotiated, jointly drafted and fully reviewed the terms of this Consent Judgment.

14. This Consent Judgment shall be binding upon the parties and their successors.

15. Defendant Fleyzor acknowledges that he understands that he has an opportunity to be heard at a trial concerning the subject matter of this Consent Judgment but, nevertheless, expressly waives such right along with the right to take an appeal or collaterally attack this Consent Judgment.

16. Defendant Fleyzor shall not represent or imply that any business practice or other act or practice hereinafter used or engaged in by him has been required or approved, in whole or part, by the Attorney General, the New Jersey Bureau of Securities, the State of New Jersey or any of the State's agencies, agents or subdivisions.

17. Unless otherwise prohibited by law, any signature by the parties required for entry of this Consent Judgment may be executed in counterparts, each of which shall be deemed an original, but all of which shall together be one and the same Consent Judgment.

18. Defendant Fleyzor represents that he has no intention to file a bankruptcy petition, to do an assignment for the benefit of creditors or otherwise to seek to modify or discharge any provision of this Consent Judgment.