

ROBB EVANS & ASSOCIATES LLC

**Temporary Receiver of
High Park Investment Group, Inc. and
Harbor Financial Investment Group, Inc., et al.**

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**Securities and Exchange Commission v. High Park Investment Group, Inc., et al.
CASE No. SACV 05-1090 CJC (MLGx)**

Amended Temporary Restraining Order and Orders:

- (1) Freezing Assets;**
- (2) Appointing a Temporary Receiver;**
- (3) Repatriating Assets;**
- (4) Prohibiting the Destruction of Documents;**
- (5) Granting Expedited Discovery; and**
- (6) Order to Show Cause Re Preliminary Injunction and Appointment of a Permanent Receiver**

Filed November 18, 2005

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CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION AT SANTA ANA
DEPUTY

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CLERK, U.S. DISTRICT COURT
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DEPUTY
**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

15 SECURITIES AND EXCHANGE
16 COMMISSION,

17 Plaintiff

18 vs.

19 HIGH PARK INVESTMENT GROUP,
20 INC., a Nevada corporation, HARBOR
21 FINANCIAL INVESTMENT GROUP,
22 INC., a Nevada corporation, EDWARD
23 R. SHOWALTER,

24 Defendants.

Case No. SACV05-1090 *WJ (MLB/e)*

**[PROPOSED] AMENDED
TEMPORARY RESTRAINING
ORDER AND ORDERS: (1)
FREEZING ASSETS;
(2) APPOINTING A TEMPORARY
RECEIVER; (3) REPATRIATING
ASSETS; (4) PROHIBITING THE
DESTRUCTION OF DOCUMENTS;
(5) GRANTING EXPEDITED
DISCOVERY; AND ORDER TO
SHOW CAUSE RE PRELIMINARY
INJUNCTION AND APPOINTMENT
OF A PERMANENT RECEIVER**

25 This matter came to be heard upon Plaintiff Securities and Exchange
26 Commission's ("Commission") Ex Parte Application For A Temporary Restraining
27 Order and Orders: (1) Freezing Assets; (2) Appointing a Temporary Receiver;
28 (3) Repatriating Assets Of High Park Investment Group, Inc. And Harbor
Financial Investment Group, Inc.; (4) Prohibiting The Destruction Of Documents;
(5) Granting Expedited Discovery; And Order To Show Cause Re Preliminary
Injunction and Appointment of a Permanent Receiver (the "Application").

The Court, having considered the Commission's Complaint, the Application,

1 the supporting Memorandum of Points and Authorities, Declarations and Exhibits,
2 and all other evidence and argument presented regarding the Application, finds
3 that:

- 4 A. This Court has jurisdiction over the parties to, and the subject matter
5 of, this action.
- 6 B. Good cause exists to believe that defendants High Park Investment
7 Group, Inc., a Nevada corporation ("High Park"), Harbor Financial
8 Investment Group, Inc., a Nevada corporation ("Harbor Financial"),
9 and Edward R. Showalter ("Showalter"), and each of them, have
10 engaged in, are engaging in, and are about to engage in transactions,
11 acts, practices and courses of business that constitute violations of
12 Sections 5(a) and 5(c) of the Securities Act of 1933 ("Securities
13 Act"), 15 U.S.C. §§ 77e(a), 77e(c).
- 14 C. Good cause exists to believe that defendants High Park, Harbor
15 Financial and Showalter, and each of them, have engaged in, are
16 engaging in, and are about to engage in transactions, acts, practices
17 and courses of business that constitute violations of Section 17(a) of
18 the Securities Act, 15 U.S.C. § 77q(a), and Section 10(b) of the
19 Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §
20 78j(b) and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.
- 21 D. The Commission has demonstrated a probability of success on the
22 merits in this case; and the possibility of dissipation of assets.
- 23 E. Good cause exists to believe that the defendants will continue to
24 engage in such violations to the immediate and irreparable loss and
25 damage to investors and to the general public unless they are
26 restrained and enjoined.
- 27 F. It is appropriate and the interests of justice require that the
28 Commission's Application be granted without notice to defendants as

1 the Commission has certified in writing pursuant to Local Rule 7-19.2
2 the reasons supporting its claim that notice should not be required,
3 and it appears from specific facts shown by the declarations and other
4 supporting evidence filed by the Commission that immediate and
5 irreparable injury, loss, or damage will result if notice to the
6 defendants is given.

7 **I.**

8 IT IS HEREBY ORDERED that the Commission's Ex Parte Application for
9 a Temporary Restraining Order and Orders: (1) Freezing Assets; (2) Appointing a
10 Temporary Receiver over High Park and Harbor Financial; (3) Repatriating Assets
11 Of High Park Investment Group, Inc. And Harbor Financial Investment Group,
12 Inc.; (4) Prohibiting the Destruction of Documents; (5) Granting Expedited
13 Discovery; and (6) To Show Cause Re Preliminary Injunction and Appointment of
14 a Permanent Receiver is GRANTED.

15 **II.**

16 IT IS FURTHER ORDERED that defendants High Park, Harbor Financial,
17 and Showalter, and their directors, officers, agents, trustees, servants, employees,
18 attorneys, accountants, subsidiaries, and affiliates, and those persons in active
19 concert or participation with any of them, who receive actual notice of this Order,
20 by personal service or otherwise, and each of them, be and hereby are temporarily
21 restrained and enjoined from, directly or indirectly, making use of any means or
22 instruments of transportation or communication in interstate commerce or of the
23 mails, to sell, to offer to sell, or to offer to buy any security, or carrying or causing
24 any security to be carried through the mails or in interstate commerce, by any
25 means or instruments of transportation, for the purpose of sale or delivery after
26 sale, unless a registration statement is in effect as to such security, in violation of
27 Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e©).

1 **III.**

2 IT IS FURTHER ORDERED that defendants High Park, Harbor Financial,
3 and Showalter, and their directors, officers, agents, trustees, servants, employees,
4 attorneys, accountants, subsidiaries, and affiliates, and those persons in active
5 concert or participation with any of them, who receive actual notice of this Order,
6 by personal service or otherwise, and each of them, be and hereby are temporarily
7 restrained and enjoined from, directly or indirectly, in the offer or sale of any
8 securities, by the use of any means or instruments of transportation or
9 communication in interstate commerce or by use of the mails:

- 10 A. employing any device, scheme or artifice to defraud;
- 11 B. obtaining money or property by means of any untrue statement of a
12 material fact or any omission to state a material fact necessary in
13 order to make the statements made, in light of the circumstances
14 under which they were made, not misleading; or
- 15 C. engaging in any transaction, practice, or course of business which
16 operates or would operate as a fraud or deceit upon the purchaser in
17 violation of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

18 **IV.**

19 IT IS FURTHER ORDERED that defendants High Park, Harbor Financial,
20 and Showalter, and their directors, officers, agents, trustees, servants, employees,
21 attorneys, accountants, subsidiaries, and affiliates, and those persons in active
22 concert or participation with any of them, who receive actual notice of this Order,
23 by personal service or otherwise, and each of them, be and hereby are temporarily
24 restrained and enjoined from, directly or indirectly, in connection with the
25 purchase or sale of any security, by the use of any means or instrumentality of
26 interstate commerce, or of the mails, or of any facility of any national securities
27 exchange:

- 28 A. employing any device, scheme or artifice to defraud;

1 B. making any untrue statement of a material fact or omitting to state a
2 material fact necessary in order to make the statements made, in the
3 light of the circumstances under which they were made, not
4 misleading; or

5 C. engaging in any practice, or course of business which operates or
6 would operate as a fraud or deceit upon any person in violation of
7 Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule
8 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

9 V.

10 IT IS FURTHER ORDERED that, except as otherwise ordered by this
11 Court, defendants High Park, Harbor Financial, and Showalter, and their officers,
12 agents, servants, employees, attorneys, subsidiaries, and affiliates, and those
13 persons in active concert or participation with any of them, who receive actual
14 notice of this Order, by personal service or otherwise, and each of them, be and
15 hereby are temporarily restrained and enjoined from, directly or indirectly,
16 transferring, assigning, selling, hypothecating, changing, wasting, dissipating,
17 converting, concealing, encumbering, or otherwise disposing of, in any manner,
18 any funds, assets, securities, claims, negotiable instruments, or other real or
19 personal property, including any notes or deeds of trust or other interests in real
20 property, wherever located, of defendants High Park, Harbor Financial, and
21 Showalter, and their subsidiaries and affiliates, whether owned by, controlled by,
22 managed by or in the possession or custody of any of them, and from transferring,
23 encumbering, dissipating, incurring charges or cash advances on any debit or
24 credit card or credit arrangement, of defendants High Park, Harbor Financial, and
25 Showalter.

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1 VI.

2 IT IS FURTHER ORDERED that except as otherwise ordered by this Court,
3 an immediate freeze shall be placed on all monies and assets (with an allowance
4 for necessary and reasonable living expenses to be granted only upon good cause
5 shown by application to the Court with notice to and an opportunity for the
6 Commission to be heard) in all accounts at any bank, financial institution, or
7 brokerage firm, all certificates of deposit, and other funds or assets, held in the
8 name of, for the benefit of, or over which signatory authority is held by High Park,
9 Harbor Financial, Showalter, or any trust, partnership, joint venture, person or
10 entity affiliated with any of the defendants, including, but not limited to, the
11 accounts set forth below:

<u>Bank Name</u>	<u>Account Name</u>	<u>Account Number(s)</u>
12 Washington Mutual	High Park Investment	098-104768-4
13 Bank	Group, Inc.	098-104767-5
14		098-104767-6
15		098-104769-2
16		
17		
18 Washington Mutual	Harbor Financial	098-499206-3
19 Bank	Investment Group, Inc.	

20 VII.

21 IT IS FURTHER ORDERED that Robb Evans & Associates LLC is
22 appointed as temporary receiver of High Park and Harbor Financial and their
23 subsidiaries and affiliates, with full powers of an equity receiver, including, but
24 not limited to, full power over all funds, assets, negotiable instruments, collateral,
25 premises (whether owned, leased, occupied, or otherwise controlled), choses in
26 action, books, records, papers and other real or personal property, including notes,
27 deeds of trust and other interests in real property, belonging to, being managed by,
28 or in the possession of or control of High Park and Harbor Financial and any of

1 their subsidiaries and affiliates, and that such temporary receiver is immediately
2 authorized, empowered and directed:

- 3 A. to have access to and to collect and take custody, control, possession,
4 and charge of all funds, assets, negotiable instruments, collateral,
5 premises (whether owned, leased, occupied, or otherwise controlled),
6 choses in action, books, records, papers and other real or personal
7 property, including notes, deeds of trust and other interests in real
8 property, of High Park, Harbor Financial, and their subsidiaries and
9 affiliates, with full power to sue, foreclose, marshal, sell, liquidate,
10 collect, receive, and take into possession all such property;
- 11 B. to have control of, and to be added as the sole authorized signatory
12 for, all accounts of High Park, Harbor Financial, and their
13 subsidiaries and affiliates, including all accounts over which High
14 Park, Harbor Financial, and any of their officers, employees, or
15 agents, have signatory authority, at any bank, title company, escrow
16 agent, financial institution, or brokerage firm which has possession,
17 custody, or control of any assets or funds of High Park or Harbor
18 Financial or which maintains accounts over which High Park, Harbor
19 Financial, and/or any of their officers, employees, or agents have
20 signatory authority;
- 21 C. to conduct such investigation and discovery as may be necessary to
22 locate and account for all of the assets of, or managed by, High Park,
23 Harbor Financial, and their subsidiaries and affiliates, and to engage
24 and employ attorneys, accountants, and other persons to assist in such
25 investigation and such action as is necessary and appropriate to
26 preserve and take control of and to prevent the dissipation,
27 concealment, or disposition of any assets of, or managed by, High
28 Park and Harbor Financial, including all notes, deeds of trust, and

1 other interests in real property;

2 D. to make an accounting, as soon as practicable, to this Court and the
3 Commission of the assets and financial condition of High Park and
4 Harbor Financial, and the assets under their management, including
5 all negotiable instruments and all notes, deeds of trust and other
6 interests in real property, and to file the accounting with the Court
7 and deliver copies thereof to all parties;

8 E. to make such payments and disbursements from the funds and assets
9 taken into custody, control, and possession or thereafter received by
10 him, and to incur, or authorize the making of such agreements as may
11 be necessary and advisable in discharging his duties as temporary
12 receiver;

13 F. to employ attorneys, accountants, and others to investigate, advise
14 and, where appropriate, to institute, pursue, and prosecute all claims
15 and causes of action of whatever kind and nature that may now or
16 hereafter exist as a result of the activities of present or past employees
17 or agents of High Park and Harbor Financial; and

18 G. to have access to and monitor all mail of High Park and Harbor
19 Financial, in order to review such mail that he deems relevant to the
20 business of High Park and Harbor Financial, and the discharging of
21 his duties as temporary receiver.

22 **VIII.**

23 IT IS FURTHER ORDERED that defendants High Park and Harbor
24 Financial, and their officers, agents, servants, employees, and attorneys, and any
25 other persons who are in custody, possession, or control of any assets, negotiable
26 instruments, collateral, books, records, papers, notes, deeds of trust, and other
27 interests in real property, or other property of, or managed by High Park and
28 Harbor Financial, shall forthwith give access to and control of such property to the

1 temporary receiver.

2 **IX.**

3 IT IS FURTHER ORDERED that no officer, agent, servant, employee, or
4 attorney of High Park or Harbor Financial, or their subsidiaries or affiliates, shall
5 take any action or purport to take any action, in the name of or on behalf of High
6 Park or Harbor Financial, or any of their subsidiaries and affiliates, without the
7 written consent of the temporary receiver or order of this Court.

8 **X.**

9 IT IS FURTHER ORDERED that, except by leave of this Court, during the
10 pendency of this receivership, all clients, investors, trust beneficiaries, note
11 holders, creditors, claimants, lessors, and all other persons or entities seeking
12 relief of any kind, in law or in equity, from High Park or Harbor Financial, or their
13 affiliates and subsidiaries, and all persons acting on behalf of any such investor,
14 trust beneficiary, note holder, creditor, claimant, lessor, or other person, including
15 sheriffs, marshals, servants, agents, employees, and attorneys, are hereby
16 temporarily restrained and enjoined from, directly or indirectly, with respect to
17 High Park, Harbor Financial, and their subsidiaries and affiliates:

- 18 A. commencing, prosecuting, continuing, or enforcing any suit or
19 proceeding (other than the present action by the Commission) against
20 High Park, Harbor Financial, or any of their subsidiaries and
21 affiliates;
- 22 B. using self help or executing or issuing or causing the execution or
23 issuance of any court attachment, subpoena, replevin, execution, or
24 other process for the purpose of impounding or taking possession of
25 or interfering with or creating or enforcing a lien upon any property
26 or property interests owned by or in the possession of High Park,
27 Harbor Financial, or any of their subsidiaries or affiliates, wherever
28 situated; and

1 C. doing any act or thing whatsoever to interfere with taking control,
2 possession, or management by the temporary receiver appointed
3 hereunder of the property and assets owned, controlled or in the
4 possession of High Park, Harbor Financial, any subsidiaries or
5 affiliates, or in any way to interfere with or harass the temporary
6 receiver, or his attorneys, accountants, employees, or agents or to
7 interfere in any manner with the discharge of the temporary receiver's
8 duties and responsibilities hereunder.

9 **XI.**

10 IT IS FURTHER ORDERED that defendants High Park, Harbor Financial,
11 and their subsidiaries and affiliates, and their officers, agents, servants, employees,
12 and attorneys, shall cooperate with and assist the temporary receiver, his attorneys,
13 accountants, employees, and agents and shall take no action, directly or indirectly,
14 to hinder, obstruct, or otherwise interfere with the temporary receiver, his
15 attorneys, accountants, employees, or agents in the conduct of the temporary
16 receiver's duties or to interfere in any manner, directly or indirectly, with the
17 custody, possession, management, or control by the temporary receiver of the
18 funds, assets, negotiable instruments, collateral, premises, and choses in action
19 described above.

20 **XII.**

21 IT IS FURTHER ORDERED that defendants High Park and Harbor
22 Financial shall pay the costs, fees, and expenses of the temporary receiver incurred
23 in connection with the performance of his duties described in this Order, including
24 the costs and expenses of those persons who may be engaged or employed by the
25 temporary receiver to assist him in carrying out his duties and obligations. All
26 applications for costs, fees and expenses for services rendered in connection with
27 the temporary receivership other than routine and necessary business expenses in
28 conducting the temporary receivership, such as salaries, rent, and any and all other

1 reasonable operating and liquidating expenses, shall be made by application
2 setting forth in reasonable detail the nature of the services and shall be heard by
3 the Court.

4 **XIII.**

5 IT IS FURTHER ORDERED that no bond shall be required in connection
6 with the appointment of the temporary receiver. Except for an act of gross
7 negligence, the temporary receiver shall not be liable for any loss or damage
8 incurred by any of the defendants, their officers, agents, servants, employees, and
9 attorneys or any other person, by reason of any act performed or omitted to be
10 performed by the temporary receiver in connection with the discharge of his duties
11 and responsibilities.

12 **XIV.**

13 IT IS FURTHER ORDERED that representatives of the Commission are
14 authorized to have continuing access to inspect or copy any or all of the corporate
15 books and records and other documents of High Park, Harbor Financial, and their
16 subsidiaries and affiliates, and continuing access to inspect their funds, property,
17 assets, negotiable instruments, and collateral, wherever located.

18 **XV.**

19 IT IS FURTHER ORDERED that, except as otherwise ordered by this
20 Court, defendants High Park, Harbor Financial, and Showalter, and their officers,
21 agents, servants, employees, attorneys, subsidiaries, and affiliates, and those
22 persons in active concert or participation with any of them, who receive actual
23 notice of this Order, by personal service or otherwise, and each of them, be and
24 hereby are temporarily restrained and enjoined from, directly or indirectly:
25 destroying, mutilating, concealing, transferring, altering, or otherwise disposing
26 of, in any manner, any documents, which includes all books, records, computer
27 programs, computer files, computer printouts, correspondence, memoranda,
28 brochures, or any other documents of any kind in their possession, custody, or

1 control, however created, produced, or stored (manually, mechanically,
2 electronically, or otherwise), pertaining in any manner to defendants High Park,
3 Harbor Financial, and Showalter.

4 **XVI.**

5 IT IS FURTHER ORDERED that the Commission's application for
6 expedited discovery be and hereby is granted and that the Commission may
7 request documents from of the following non-parties, and take their depositions
8 upon oral examination for the limited purpose of authenticating any documents
9 produced, subject to two calendar days notice pursuant to Rule 45 of the Federal
10 Rules of Civil Procedure:

- 11 (1) Wells Fargo Bank;
- 12 (2) Washington Mutual Bank;
- 13 (3) Citibank; and
- 14 (4) Chapman Avenue Escrow;

15 that the Commission may take the deposition of Defendant Edward R. Showalter
16 upon oral examination subject to two calendar days notice pursuant to Rules 30(a)
17 and 34 of the Federal Rules of Civil Procedure; that the Commission may take
18 more than one deposition at the same time, and that the deposition of the
19 defendant may be taken on any day, including Saturday or Sunday subject to two
20 calendar days notice, including notice given personally, by facsimile or by
21 electronic mail.

22 **XVII.**

23 IT IS FURTHER ORDERED that within ten days from the date of this
24 order, High Park and Harbor Financial shall transfer to the temporary receiver all
25 assets, funds, documents and other property held in foreign locations in the name
26 of High Park or Harbor Financial, or for the benefit or under the direct or indirect
27 control of High Park or Harbor Financial, or over which they exercise investment
28 or other authority, including signatory authority.

1 **XVIII.**

2 IT IS FURTHER ORDERED that this Temporary Restraining Order shall
3 expire at 5 o'clock p .m. on December 16, 2005, unless, for good cause shown, it is
4 extended or unless the parties against whom it is directed consent that it may be
5 extended for a longer period.

6 **XIX.**

7 IT IS FURTHER ORDERED that at 3 o'clock p.m. on December 16, 2005,
8 or as soon thereafter as the parties can be heard, the defendants, and each of them,
9 shall appear before the Honorable Cormac J. Carney, Judge of the United States
10 District Court for the Central District of California, to show cause, if there be any,
11 why a preliminary injunction should not be granted and a permanent receiver not
12 appointed in accordance with the prayer for relief contained in this Complaint
13 filed by the Commission. Any declarations, affidavits, memoranda of law, or
14 other submissions in support of, or in opposition to, the issuance of such an Order
15 shall be filed with the Court and delivered to the Commission's Pacific Regional
16 Office and the offices of the defendants and/or their attorneys pursuant to the
17 briefing schedule set forth in the Stipulation and Order (1) to Continue Temporary
18 Restraining Order, Asset Freeze and Other Related Orders and (2) to Continue
19 OSC Hearing dated November 16, 2005.

20 **XX.**

21 IT IS FURTHER ORDERED that this Court shall retain jurisdiction over
22 this action for the purpose of implementing and carrying out the terms of all orders
23 and decrees which may be entered herein and to entertain any suitable application
24 or motion for additional relief within the jurisdiction of this Court.

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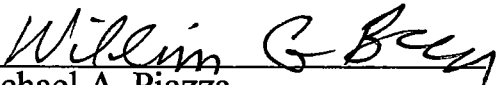
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1 IT IS SO ORDERED.

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5 DATED: November 18, 2005


UNITED STATES DISTRICT JUDGE

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7 Presented by:

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9 
10 Michael A. Piazza
11 Lorraine B. Echavarria
12 William G. Berry
13 Attorneys for Plaintiff
14 Securities and Exchange Commission
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