



### III.

On the basis of this Order and Kerbel's Offer, the Commission finds that:

1. Kerbel was the founder of ThermoElastic Technologies, Inc. ("TMRO") and controlled a significant amount of TMRO stock. Kerbel, a resident of Toronto, Ontario Canada, is 62 years old.
2. Kerbel participated in an offering of TMRO, which is a penny stock.
3. On March 14, 2003, Kerbel pled guilty to one count of conspiracy to commit wire fraud, mail fraud and securities fraud in violation of Title 18 United States Code, Section 371 before the United States District Court for the Southern District of Florida, in United States v. Howard E. Kerbel, et al., Criminal Indictment No. 02-20547-CR-HUCK. On June 25, 2003, a judgment in the criminal case was entered against Kerbel, and he was sentenced to a prison term of 18 months followed by three years of supervised release including community service.
4. The count of the criminal indictment to which Kerbel pled guilty alleged, inter alia, that Kerbel and his co-defendants conspired to unjustly enrich themselves by defrauding the fund, by artificially affecting the supply and demand for TMRO stock and by inflating the price of TMRO stock through illegal means. It was also alleged that the purpose and object of the conspiracy for Kerbel and his co-defendants was to unjustly enrich themselves by defrauding the public shareholders of TMRO.

### IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions specified in Respondent Kerbel's Offer.

Accordingly, it is hereby **ORDERED**:

Pursuant to Section 15(b) of the Exchange Act, that Respondent Kerbel be, and hereby is, barred from participating in any 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 the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock.

For the Commission, by its Secretary, pursuant to delegated authority.

Jonathan G. Katz  
Secretary