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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

CMKM DIAMONDS, INC., URBAN
CASAVANT, JOHN EDWARDS,
GINGER GUTIERREZ, JAMES
KINNEY, ANTHONY TOMASSO,
KATHLEEN TOMASSO, 1ST
GLOBAL STOCK TRANSFER, LLC,
HELEN BAGLEY, NEVWEST
SECURITIES CORPORATION,
DARYL ANDERSON, SERGEY
RUMYANTSEV, ANTHONY
SANTOS, and BRIAN DVORAK,

Defendants.

Case No.: 2:08-cv-00437-LRH-RJJ

**FINAL JUDGMENT OF PERMANENT INJUNCTION AND
OTHER RELIEF AGAINST DEFENDANT URBAN CASAVANT**

1 Pursuant to Rule 55 of the Federal Rules of Civil Procedure, the Application
2 of Plaintiff Securities and Exchange Commission for Entry of Default Judgment
3 Against Defendant Urban Casavant came before this Court. The Court, having
4 considered all evidence and argument in connection with the Application, enters
5 the following Final Judgment:

6 **I.**

7 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the
8 Securities and Exchange Commission's Application for Entry of Default Judgment
9 Against Defendant Urban Casavant is GRANTED.

10 **II.**

11 IT IS ORDERED, ADJUDGED, AND DECREED that Casavant and his
12 agents, servants, employees, attorneys, and all persons in active concert or
13 participation with them who receive actual notice of this Final Judgment by
14 personal service or otherwise are permanently restrained and enjoined from
15 violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of
16 1934 (the "Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated
17 thereunder, 17 C.F.R. § 240.10b-5, by using any means or instrumentality of
18 interstate commerce, or of the mails, or of any facility of any national securities
19 exchange, in connection with the purchase or sale of any security:

- 20 (a) to employ any device, scheme, or artifice to defraud;
- 21 (b) to make any untrue statement of a material fact or to omit to state a
22 material fact necessary in order to make the statements made, in the
23 light of the circumstances under which they were made, not
24 misleading; or
- 25 (c) to engage in any act, practice, or course of business which operates or
26 would operate as a fraud or deceit upon any person.

27 **III.**

28 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Casavant

1 and his agents, servants, employees, attorneys, and all persons in active concert or
2 participation with them who receive actual notice of this Final Judgment by
3 personal service or otherwise are permanently restrained and enjoined from
4 violating Section 17(a) of the Securities Act of 1933 (the "Securities Act"), 15
5 U.S.C. § 77q(a), in the offer or sale of any security by the use of any means or
6 instruments of transportation or communication in interstate commerce or by use
7 of the mails, directly or indirectly:

- 8 (a) to employ any device, scheme, or artifice to defraud;
- 9 (b) to obtain money or property by means of any untrue statement of a
10 material fact or any omission of a material fact necessary in order to
11 make the statements made, in light of the circumstances under which
12 they were made, not misleading; or
- 13 (c) to engage in any transaction, practice, or course of business which
14 operates or would operate as a fraud or deceit upon the purchaser.

15 **IV.**

16 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Casavant
17 and his agents, servants, employees, attorneys, and all persons in active concert or
18 participation with them who receive actual notice of this Final Judgment by
19 personal service or otherwise are permanently restrained and enjoined from
20 violating Section 5 of the Securities Act, 15 U.S.C. § 77e, by, directly or indirectly,
21 in the absence of any applicable exemption:

- 22 (a) Unless a registration statement is in effect as to a security, making use
23 of any means or instruments of transportation or communication in
24 interstate commerce or of the mails to sell such security through the
25 use or medium of any prospectus or otherwise;
- 26 (b) Unless a registration statement is in effect as to a security, carrying or
27 causing to be carried through the mails or in interstate commerce, by
28 any means or instruments of transportation, any such security for the

1 purpose of sale or for delivery after sale; or

- 2 (c) Making use of any means or instruments of transportation or
3 communication in interstate commerce or of the mails to offer to sell
4 or offer to buy through the use or medium of any prospectus or
5 otherwise any security, unless a registration statement has been filed
6 with the Commission as to such security, or while the registration
7 statement is the subject of a refusal order or stop order or (prior to the
8 effective date of the registration statement) any public proceeding or
9 examination under Section 8 of the Securities Act, 15 U.S.C. § 77h.

10 **V.**

11 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Casavant
12 and his agents, servants, employees, attorneys, and all persons in active concert or
13 participation with them who receive actual notice of this Final Judgment by
14 personal service or otherwise are permanently restrained and enjoined from aiding
15 and abetting any violation of Section 13(a) of the Exchange Act, 15 U.S.C.
16 § 78m(a), and Rules 13a-1 and 13a-13 thereunder, 17 C.F.R. §§ 240.13a-1 &
17 240.13a-13, by knowingly providing substantial assistance to an issuer in filing
18 with the Commission required periodic reports, which fail to include material
19 information necessary to make the required statements, in light of the
20 circumstances under which they are made, not misleading.

21 **VI.**

22 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Casavant
23 and his agents, servants, employees, attorneys, and all persons in active concert or
24 participation with them who receive actual notice of this Final Judgment by
25 personal service or otherwise are permanently restrained and enjoined from aiding
26 and abetting any violation of Section 13(b)(2)(A) of the Exchange Act, 15 U.S.C. §
27 78m(b)(2)(A), and violating Rule 13b2-1 thereunder, 17 C.F.R. § 240.13b2-1, by
28 knowingly providing substantial assistance to an issuer that failed to make an keep

1 books, records, and accounts, which, in reasonable detail, accurately and fairly
2 reflect the transactions and disposition of the assets of the issuer.

3 **VII.**

4 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Casavant
5 and his agents, servants, employees, attorneys, and all persons in active concert or
6 participation with them who receive actual notice of this Final Judgment by
7 personal service or otherwise are permanently restrained and enjoined from aiding
8 and abetting any violation of Sections 13(b)(2)(B) of the Exchange Act, 15 U.S.C.
9 § 78m(b)(2)(B), by knowingly providing substantial assistance to an issuer which
10 has a class of securities registered pursuant to Section 12 of the Exchange Act, 15
11 U.S.C. § 78l, or that is required to file reports pursuant to Section 15(d) of the
12 Exchange Act, 15 U.S.C. § 78o(d), in failing to devise and maintain a sufficient
13 system of internal accounting controls sufficient to provide reasonable assurances
14 that:

- 15 a. transactions are executed in accordance with management's general
16 or specific authorization;
- 17 b. transactions are recorded as necessary (i) to permit preparation of
18 financial statements in conformity with generally accepted
19 accounting principles or any other criteria applicable to such
20 statements, and (ii) to maintain accountability for assets;
- 21 c. access to assets is permitted only in accordance with management's
22 general or specific authorization; and
- 23 d. the recorded accountability for assets is compared with the existing
24 assets at reasonable intervals and appropriate action is take with
25 respect to any differences.

26 **VIII.**

27 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that,
28 pursuant to Section 21(d)(2) of the Exchange Act, 15 U.S.C. § 78u(d)(2), and

1 Section 20(e) of the Securities Act, 15 U.S.C. § 77t(e), Casavant is prohibited from
2 acting as an officer or director of any issuer that has a class of securities registered
3 pursuant to Section 12 of the Exchange Act, 15 U.S.C. § 78l, or that is required to
4 file reports pursuant to Section 15(d) of the Exchange Act, 15 U.S.C. § 78o(d).

5 **IX.**

6 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
7 Casavant is permanently barred from participating in an offering of penny stock,
8 including engaging in activities with a broker, dealer, or issuer for purposes of
9 issuing, trading, or inducing or attempting to induce the purchase or sale of any
10 penny stock. A penny stock is any equity security that has a price of less than five
11 dollars, except as provided in Rule 3a51-1 under the Exchange Act, 17 C.F.R. §
12 240.3a51-1.

13 **X.**

14 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
15 Casavant is liable for disgorgement of \$31,500,000, representing profits gained as
16 a result of the conduct alleged in the Complaint, together with prejudgment interest
17 thereon in the amount of \$2,689,433.62, and a civil penalty in the amount of
18 \$31,500,000 pursuant to Section 20(d) of the Securities Act, 15 U.S.C. Section 77t(d), and
19 Section 21(d)(3) of the Exchange Act, 15 U.S.C. 78u(d)(3). Casavant shall satisfy
20 this obligation by paying \$65,689,433.62 within ten business days to the Clerk of
21 this Court, together with a cover letter identifying Casavant as a defendant in this
22 action; setting forth the title and civil action number of this action and the name of
23 this Court; and specifying that payment is made pursuant to this Final Judgment.
24 Casavant shall simultaneously transmit photocopies of such payment and letter to
25 the Commission's counsel in this action. By making this payment, Casavant
26 relinquishes all legal and equitable right, title, and interest in such funds, and no
27 part of the funds shall be returned to Casavant. Casavant shall pay post-judgment
28 interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

1 The Clerk shall deposit the funds into an interest bearing account with the
2 Court Registry Investment System (“CRIS”) or any other type of interest bearing
3 account that is utilized by the Court. These funds, together with any interest and
4 income earned thereon (collectively, the “Fund”), shall be held in the interest
5 bearing account until further order of the Court. In accordance with 28 U.S.C.
6 § 1914 and the guidelines set by the Director of the Administrative Office of the
7 United States Courts, the Clerk is directed, without further order of this Court, to
8 deduct from the income earned on the money in the Fund a fee equal to ten percent
9 of the income earned on the Fund. Such fee shall not exceed that authorized by the
10 Judicial Conference of the United States.

11 The Commission may by motion propose a plan to distribute the Fund
12 subject to the Court’s approval. Such a plan may provide that the Fund shall be
13 distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-
14 Oxley Act of 2002. Regardless of whether any such Fair Fund distribution is
15 made, amounts ordered to be paid as civil penalties pursuant to this Judgment shall
16 be treated as penalties paid to the government for all purposes, including all tax
17 purposes. To preserve the deterrent effect of the civil penalty, Casavant shall not,
18 after offset or reduction of any award of compensatory damages in any Related
19 Investor Action based on Casavant’s payment of disgorgement in this action, argue
20 that he is entitled to, nor shall he further benefit by, offset or reduction of such
21 compensatory damages award by the amount of any part of Casavant’s payment of
22 a civil penalty in this action (“Penalty Offset”). If the court in any Related Investor
23 Action grants such a Penalty Offset, Casavant shall, within 30 days after entry of a
24 final order granting the Penalty Offset, notify the Commission’s counsel in this
25 action and pay the amount of the Penalty Offset to the United States Treasury or to
26 a Fair Fund, as the Commission directs. Such a payment shall not be deemed an
27 additional civil penalty and shall not be deemed to change the amount of the civil
28 penalty imposed in this Judgment. For purposes of this paragraph, a “Related

1 Investor Action” means a private damages action brought against Casavant by or
2 on behalf of one or more investors based on substantially the same facts as alleged
3 in the Complaint in this action.

4 **XI.**

5 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this
6 Court shall retain jurisdiction of this matter for the purposes of enforcing the terms
7 of this Final Judgment.

8 **X.**

9 There being no just reason for delay, pursuant to Rule 54(b) of the Federal
10 Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment
11 forthwith and without further notice.

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13 DATED this 2nd day of September, 2009.



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15 LARRY R. HICKS
16 UNITED STATES DISTRICT JUDGE
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