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3:98-CV-01072 SECURITIES AND V. GLOBAL TIMBER CORP

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\*JGM.\*

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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY: *R. Deemer* DEPUTY

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

10  
11 SECURITIES AND EXCHANGE  
12 COMMISSION,

13 Plaintiff,

14 vs.

15 GLOBAL TIMBER CORPORATION;  
16 STEPHEN J. SAND; JOSE F. GARCIA;  
17 JONATHON BENTLEY-STEVENS;  
18 DAVID A. KIRK; AND PAMELA J.  
19 VEGA,

20 Defendants.

21 Case No. 98 CV 1072 DMS (NLS)

22 [PROPOSED] FINAL  
23 JUDGMENT OF PERMANENT  
24 INJUNCTION AND OTHER  
25 RELIEF AGAINST  
26 DEFENDANT DAVID A. KIRK

27  
28 ENTERED ON *3.24.04*

98 CV 1072 DMS (NLS)

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The Securities and Exchange Commission, having filed a Complaint and served upon Defendant David A. Kirk ("Defendant" or "Kirk") a Summons and Complaint in this action, and this matter having been tried to a jury, which returned a unanimous verdict finding that Kirk violated Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5, the Court issues this Final Judgment Of Permanent Injunction And Other Relief Against Defendants David A. Kirk ("Final Judgment"):

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant Kirk and his agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5, by using 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 security:

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

II.

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

\* \* \*

6 There being no just reason for delay, the Clerk of the Court is directed to  
7 enter this Final Judgment.

DATED: 3-23-04

HON. DANA M. SABRAW  
UNITED STATES DISTRICT JUDGE

Presented by:

Nick Morgan

Nicolas Morgan  
Attorney for Plaintiff  
Securities and Exchange

## **PROOF OF SERVICE**

I am over the age of 18 years and not a party to this action. My business address is:

[X] U.S. SECURITIES AND EXCHANGE COMMISSION, 5670 Wilshire Boulevard, 11<sup>th</sup> Floor, Los Angeles, California 90036.

Telephone: (323) 965-3998; Fax: (323) 965-3908

On March 12, 2004, I served the document entitled **[PROPOSED] FINAL JUDGMENT OF PERMANENT INJUNCTION AND OTHER RELIEF AGAINST DEFENDANT DAVID A. KIRK** upon the parties to this action addressed as stated on the attached service list:

**OFFICE MAIL:** By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with this agency's practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

[ ] **PERSONAL DEPOSIT IN MAIL:** By placing in sealed envelope(s), which I personally deposited with the U.S. Postal Service. Each such envelope was deposited with the U.S. Postal Service at Los Angeles, California, with first class postage thereon fully prepaid.

[ ] **EXPRESS U.S. MAIL:** Each such envelope was deposited in a facility regularly maintained at the U.S. Postal Service for receipt of Express Mail at Los Angeles, California, with Express Mail postage paid.

[ ] **PERSONAL SERVICE:** I caused to be personally delivered each such envelope by hand to the office of the addressee in the attached service list.

[ ] **FEDERAL EXPRESS:** By placing in sealed envelope(s) designated by Federal Express with delivery fees paid or provided for, which I deposited in a facility regularly maintained by Federal Express or delivered to a Federal Express courier, at Los Angeles, California.

[ ] **FAX (BY AGREEMENT ONLY):** By transmitting the document by facsimile transmission. The transmission was reported as complete and without error.

[X] **(Federal)** I declare that I am employed in the office of a member of the bar of this Court, at whose direction the service was made. I declare under penalty of perjury that the foregoing is true and correct

Date: March 12, 2004

*Magnolia M. Marcel*  
MAGNOLIA M. MARCELO

**SEC v. GLOBAL TIMBER CORPORATION, et al.**  
**United States District Court - Southern District of California**  
**Case No. 98 CV 1072 DMS (NLS)**  
**(LA-846)**

## SERVICE LIST

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