

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-v.-

98 Civ. 2320 (RPP)

ARJUN SEKHRI, AMOLAK SEHGAL,
PRATIMA RAJAN, FUAD DOW,
GORDON W. COCHRANE,
MARTIN L. THIFAUULT,
ROHINA SHARMA *and*
SHARAD KAPOOR

Defendants,

MAHENDAR SEKHRI *and*
SHARDA SEKHRI,

Relief Defendants.

**FINAL JUDGMENT OF PERMANENT INJUNCTION
AND OTHER RELIEF AGAINST DEFENDANT FUAD DOW**

Plaintiff Securities and Exchange Commission (“SEC”), having filed its Complaint, Amended Complaint, and Second Amended Complaint (together the “Complaint”) in the above-captioned action, and defendant Fuad Dow having filed his Consent (“Consent”) to entry of this Final Judgment Of Permanent Injunction And Other Relief (“Final Judgment”), and defendant Dow having in such Consent entered a general appearance, and waived the entry of findings of fact and conclusions of law under Federal Rule of Civil Procedure 52, without admitting or denying any of the allegations of the Complaint, except as to jurisdiction, which is admitted, and it appearing that this Court has jurisdiction over defendant Dow and the subject matter hereof:

I.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Dow and his agents, servants, successors, employees, attorneys, and all persons in active concert or participation with any of them, and each of them, be and hereby are permanently restrained and enjoined from, directly or indirectly, in connection with the purchase or sale of the securities of any issuer, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange: (i) employing any device, scheme or artifice to defraud; (ii) making any untrue statement of a material fact or omitting 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 (iii) engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in violation of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §240.10b-5].

II.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Dow and his agents, servants, successors, employees, attorneys, and all persons in active concert or participation with any of them, and each of them, be and hereby are permanently restrained and enjoined from, directly or indirectly, in connection with any tender offer or request or invitation for tenders, engaging in any fraudulent, deceptive, or manipulative act or practice by: (i) trading in the securities sought or to be sought in such tender offer while in possession of material, non-public information relating to said tender offer which they know or have reason to know is non-public and know or have reason to know

was acquired directly or indirectly from the offering person, the issuer of the securities sought or to be sought by such tender offer, or any officer, director, partner, employee or other person acting on behalf of the offering person or such issuer, without disclosing such information and its source a reasonable time prior to trading, in violation of Section 14(e) of the Exchange Act [15 U.S.C. § 78n(e)] and Rule 14e-3 thereunder [17 C.F.R. § 240.14e-3]; or (ii) communicating material, non-public information relating to a tender offer, which information they know or have reason to know is non-public and know or have reason to know was acquired directly or indirectly from the offering person, the issuer of the securities sought or to be sought in the tender offer, or any person acting on behalf of the offering person or such issuer, to any other person under circumstances in which it is reasonably foreseeable that such communication is likely to result in violation of Section 14(e) of the Exchange Act [15 U.S.C. § 78n(e)] and Rule 14e-3 thereunder [17 C.F.R. § 240.14e-3].

III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Dow pay disgorgement of his profits gained from the conduct alleged in the Complaint in the amount of \$489,214.78, plus pre-judgment interest. Based upon (i) Dow's sworn Statement of Financial Condition as of July 1, 1998, dated July 8, 1998, and submitted to the SEC, (ii) documents provided by Dow to the SEC related to his Statement of Financial Condition, and (iii) all other representations made by Dow to the SEC related to his financial condition, payment of all of the disgorgement and pre-judgment interest in excess of all of the contents of the accounts identified below at paragraph IV, approximately \$469,000, is waived, contingent upon the accuracy and completeness of the foregoing.

IV.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, in order to satisfy Dow's obligation to pay disgorgement in this action, all of the contents in (i) Account No. 301-11845-1-6 at Waterhouse Securities, Inc., (ii) Account No. 2784-2251 at E*Trade Securities, Inc., (iii) Account No. 150-063642 at Ameritrade, Inc., (iv) Account No. 631-504750 at DLJ Direct, Inc., and (v) Account No. 831-344612-7 at Washington Mutual Bank, FA, accounts which contain approximately \$469,000, shall be paid by Waterhouse Securities, E*Trade Securities, Ameritrade, DLJ Direct, and Washington Mutual Bank no later than October 30, 1998 by check payable to "Clerk, United States District Court for the Southern District of New York" pending further order, under a cover letter to the Office of the Clerk, United States District Court for the Southern District of New York, 500 Pearl Street, Room 120, New York, New York 10007-1312, which identifies Dow, the caption and case number of this action and the name of this Court. Copies of such check and accompanying cover letter shall be simultaneously transmitted to Stephen J. Crimmins, Deputy Chief Litigation Counsel of the SEC, 450 Fifth Street, N.W. (8-8), Washington, D.C. 20549.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Clerk shall deposit all funds received pursuant to this Final Judgment into the Registry of the Court, in an interest-bearing account. At such time as such funds are paid to the Court, Dow relinquishes all legal and equitable right, title, and interest in those funds, and no part of such funds shall be

returned to Dow or his successors or assigns. The SEC will thereafter submit for the Court's consideration proposed orders for disposition of such funds.

VI.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that based upon Dow's sworn representations in (i) Dow's sworn Statement of Financial Condition as of July 1, 1998, dated July 8, 1998, and submitted to the SEC, (ii) documents provided by Dow to the SEC related to his Statement of Financial Condition, and (iii) all other representations made by Dow to the SEC related to his financial condition, the Court is not ordering him to pay a civil penalty pursuant to Section 21A of the Exchange Act [15 U.S.C. §§78u-1] or requiring payment of all the disgorgement and pre-judgment interest in excess of all of the contents in the accounts identified above at paragraph IV. The determination not to impose a civil penalty and to waive payment of the remaining disgorgement plus pre-judgment interest is contingent upon the accuracy and completeness of his Statement of Financial Condition and the documents and information provided to the SEC in connection therewith. If at any time following the entry of this Final Judgment the SEC obtains information indicating that Dow's representations to the SEC concerning his assets, income, liabilities, or net worth were fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made, the SEC may, at its sole discretion and without prior notice to Dow, petition this Court for an order requiring Dow to pay the amount of remaining disgorgement, pre-judgment and post-judgment interest thereon, and a civil penalty. In connection with any such petition the only issues shall be whether the financial information provided by Dow was fraudulent, misleading, inaccurate or incomplete in

any material respect as of the time such representations were made, and the amount of civil penalty to be imposed. In its petition, the SEC may move this Court to consider all available remedies, including, but not limited to, ordering Dow to pay funds or assets, directing forfeiture of any assets, or sanctions for contempt of this Final Judgment. The SEC may also request additional discovery. Dow may not, by way of defense to such petition, challenge the validity of his Consent or the Final Judgment, contest the allegations in the Complaint filed by the SEC, the amount of disgorgement and interest, or assert that disgorgement or payment of a civil penalty should not be ordered.

VII.

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


UNITED STATES DISTRICT JUDGE *ms*

Dated: October 22, 1998