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CLERK, U.S. DISTRICT COURT
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CENTRAL DISTRICT OF CALIFORNIA
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OCT - 5 2000
CENTRAL DISTRICT OF CALIFORNIA
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U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

11 SECURITIES AND EXCHANGE COMMISSION,
12 Plaintiff,
13 v.
14 STEPHEN V. BURNS,
15 Defendant.

Case No. 00-10526 NM(RNBx)
FINAL JUDGMENT OF PERMANENT
INJUNCTION AND OTHER RELIEF
AGAINST STEPHEN V. BURNS

17 Plaintiff Securities and Exchange Commission ("Commission"),
18 having filed and served upon Defendant Stephen V. Burns ("Burns") a
19 Summons and Complaint in this action; Burns having admitted service
20 upon him of the Summons and Complaint in this action and the
21 jurisdiction of this Court over him and over the subject matter of
22 this action; having been fully advised and informed of his right to
23 a judicial determination of this matter; having waived the entry of
24 findings of fact and conclusions of law as provided by Rule 52 of
25 the Federal Rules of Civil Procedure; having consented to the entry
26 of this Final Judgment Of Permanent Injunction And Other Relief
27 Against Stephen V. Burns ("Judgment") without admitting or denying
28 the allegations in the Complaint, except as specifically set forth

✓ Docketed
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1 in the Consent Of Stephen V. Burns To Entry Of Final Judgment Of
2 Permanent Injunction And Other Relief ("Consent"); no notice of
3 hearing upon the entry of this Judgment being necessary; and this
4 Court being fully advised:

5 I.

6 IT IS ORDERED, ADJUDGED AND DECREED that Burns and his agents,
7 servants, employees and attorneys, and all persons in active concert
8 or participation with any of them, who receive actual notice of this
9 Judgment by personal service or otherwise, and each of them, are
10 permanently restrained and enjoined from, directly or indirectly:

- 11 A. making use of any means or instruments of transportation
12 or communication in interstate commerce or of the mails to
13 sell any security, through the use or medium of any
14 prospectus or otherwise, unless and until a registration
15 statement is in effect as to such security;
- 16 B. carrying or causing to be carried through the mails or in
17 interstate commerce, by any means or instruments of
18 transportation, for the purpose of sale or for delivery
19 after sale, any such security, unless and until a
20 registration statement is in effect as to such security;
21 or
- 22 C. making use of any means or instruments of transportation
23 or communication in interstate commerce or of the mails to
24 offer to sell or offer to buy through the use or medium of
25 any prospectus or otherwise, any security, unless and
26 until a registration statement has been filed with the
27 Commission as to such security, or while the registration
28 statement as to such security is the subject of a refusal

1 order or stop order or (prior to the effective date of the
2 registration statement) any public proceeding or
3 examination under Section 8 of the Securities Act [15
4 U.S.C. § 77h];
5 in violation of Sections 5(a) and 5(c) of the Securities Act [15
6 U.S.C. §§ 77e(a) & 77e(c)].

7 II.

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Burns and his
9 agents, servants, employees and attorneys, and all persons in active
10 concert or participation with any of them, who receive actual notice
11 of this Judgment by personal service or otherwise, and each of them,
12 are permanently restrained and enjoined from, directly or
13 indirectly, in the offer or sale of any securities by the use of any
14 means or instruments of transportation or communication in
15 interstate commerce or by the use of the mails:

- 16 A. employing any device, scheme or artifice to defraud;
17 B. obtaining money or property by means of any untrue
18 statement of a material fact or any omission to state a
19 material fact necessary in order to make the statements
20 made, in the light of the circumstances under which they
21 were made, not misleading; or
22 C. engaging in any transaction, practice, or course of
23 business which operates or would operate as a fraud or
24 deceit upon the purchaser;

25 in violation of Section 17(a) of the Securities Act of 1933 [15
26 U.S.C. § 77q(a)].

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III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Burns and his agents, servants, employees and attorneys, and all persons in active concert or participation with any of them, who receive actual notice of this Judgment by personal service or otherwise, and each of them, are permanently restrained and enjoined from, directly or indirectly, in connection with the purchase or sale of any security, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange:

- A. employing any device, scheme, or artifice to defraud;
- B. 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
- C. 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 [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

IV.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Burns and his agents, servants, employees and attorneys, and all persons in active concert or participation with any of them, who receive actual notice of this Judgment by personal service or otherwise, and each of them, are permanently restrained and enjoined from, by the use of the

1 mails or any means or instrumentality of interstate commerce,
2 directly or indirectly, while acting as an investment adviser:

3 A. employing any devices, schemes, or artifices to defraud
4 any client or prospective client; and

5 B. engaging in any transaction, practice or course of
6 business which operates as a fraud or deceit upon any
7 client or prospective client;

8 in violation of Sections 206(1) and 206(2) of the Investment
9 Advisers Act of 1940 ("Advisers Act") [15 U.S.C. §§ 80b-6(1) &
10 80b-6(2)].

11 **V.**

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Burns pay
13 disgorgement in the amount of \$828,333.00, plus pre-judgment
14 interest calculated pursuant to 28 U.S.C. § 1961. Based upon Burns'
15 sworn representations in his Statement of Financial Condition dated
16 October 21, 1999, and submitted to the Commission, payment of all of
17 the disgorgement and interest is waived. Additionally, based upon
18 Burns' sworn representations in his Statement of Financial
19 Condition, this Court is not ordering Burns to pay a civil penalty
20 pursuant to Section 20(d) of the Securities Act [15 U.S.C. §
21 77t(d)], Section 21(d)(3) of the Exchange Act [15 U.S.C. §
22 78u(d)(3)] or Section 209(e) of the Advisers Act [15 U.S.C. § 80b-
23 9(e)]. The waiver of disgorgement and interest and the
24 determination not to assess a civil penalty are contingent upon the
25 accuracy and completeness of Burns' Statement of Financial
26 Condition. If at any time following the entry of this Judgment the
27 Commission obtains information indicating that Burns'
28 representations to the Commission concerning his assets, income,

1 liabilities, or net worth were fraudulent, misleading, inaccurate or
2 incomplete in any material respect as of the time such
3 representations were made, the Commission may, at its sole
4 discretion and without prior notice to Burns, petition this Court
5 for an order modifying this Judgment to require payment of
6 additional disgorgement, and prejudgment and postjudgment interest
7 thereon, and civil money penalties. In connection with any such
8 petition, the only issues shall be whether the financial information
9 provided by Burns was fraudulent, misleading, inaccurate or
10 incomplete in any material respect as of the time such
11 representations were made, and the amount of the civil penalty to be
12 imposed. In its petition, the Commission may move this Court to
13 consider all available remedies, including, but not limited to,
14 ordering Burns to pay funds or assets, directing the surrender of
15 any assets, or sanctions for contempt of this Judgment, and the
16 Commission may also require additional discovery. Burns may not, by
17 way of defense to such petition, challenge the validity of his
18 Consent or this Judgment, contest the allegations in the Complaint
19 filed by the Commission, the amount of disgorgement and interest, or
20 assert that disgorgement, interest, or payment of a civil penalty
21 should not be ordered.

22 **VI.**

23 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the provisions
24 of the Consent filed concurrently with this Judgment are
25 incorporated herein with the same force and effect as if fully set
26 forth herein and that Burns shall comply with his Consent.

VII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction over this action for all purposes, including to implement and enforce the terms of this Judgment and other orders and decrees which may be entered, and to grant such other relief as this Court may deem necessary and just.

* * * * *

There being no just reason for delay, the Clerk of the Court is hereby directed, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, to enter this Judgment forthwith.

DATED:

October 4, 2000



UNITED STATES DISTRICT JUDGE

NORA M. MANELLA

PROOF OF SERVICE

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

United States Securities and Exchange Commission, Pacific Regional Office, 11th Floor, 5670 Wilshire Boulevard, Los Angeles, California 90036-3648, Fax: (323) 965-3908.

On October 4, 2000, I served the foregoing document entitled **FINAL JUDGMENT OF PERMANENT INJUNCTION AND OTHER RELIEF AGAINST STEPHEN V. BURNS** on all 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 firm'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 personally delivered each such envelope by hand to the office of the addressee.

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 at the time shown on the attached transmission report. The transmission was reported as complete and without error, and the attached transmission report was properly issued by the transmitting fax machine.

(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.

Date: October 4, 2000



Irene Mejia

1 **SECURITIES AND EXCHANGE COMMISSION v. STEPHEN V. BURNS**
2 **United States District Court - Central District of California**
3 **WESTERN DIVISION**
4 **Case No.00-10526 NM(RNBx)**

5 SERVICE LIST

6 Nathan J. Hochman, Esq.
7 Hochman, Salkin, Rettig, Toscher & Perez, P.C.
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9 Beverly Hills, CA 90212-3414

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