

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

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SECURITIES AND EXCHANGE COMMISSION,	:	
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Plaintiff,	:	
	:	
v.	:	
	:	
STEVEN E. THORN, <i>et al.</i> ,	:	CASE NO. C2-01-290
	:	
Defendants,	:	
	:	Judge Sargus
ROGER WEIZENEGGER, <i>et al.</i> ,	:	
	:	
Relief Defendants.	:	Magistrate Judge Abel
	:	

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**FINAL JUDGMENT AS TO DEFENDANT DERRICK N. MCKINNEY**

The Court having entered an Order of Permanent Injunction and Other Equitable Relief as to Defendant Derrick N. McKinney (“McKinney”) (Doc. #613); and the Court having found in its Opinion and Order (Doc. #857) that Defendant McKinney should pay a civil penalty in the amount of \$250,000:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant McKinney and Defendant McKinney’s 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 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.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant McKinney and Defendant McKinney's 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 are permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

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

III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant McKinney and Defendant McKinney's 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 are permanently restrained and enjoined from violating Section 15(c)(1) of the Exchange Act [15 U.S.C. § 78o(c)(1)] and Rule 15c1-2 thereunder [17 C.F.R. § 240.15c1-2] by, while acting as a broker or dealer, making use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than commercial paper, bankers' acceptances, or commercial bills) otherwise than on a national securities exchange of which it is a member, or any securities-based swap agreement, by means of any manipulative, deceptive, or other fraudulent device or contrivance, including any untrue statement of a material fact and any omission to state a material fact necessary to make the statements made, in the light of the circumstances under which they are made, not misleading, with knowledge or reasonable grounds to believe that the statement or omission is untrue or misleading.

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant McKinney and Defendant McKinney's 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 are permanently restrained and enjoined from violating Section 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)] by, while engaging in business as a broker or dealer, making use of the mails or any means or instrumentality of interstate commerce to effect any

transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) unless registered with the Commission in accordance with Section 15(b) of the Exchange Act [15 U.S.C. § 78o(b)] or associated with a broker or dealer that is registered with the Commission in accordance with Section 15(b) of the Exchange Act [15 U.S.C. § 78o(b)].

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant McKinney is liable for disgorgement of \$54,200, representing gains from his illegal conduct as alleged in the Second Amended Complaint, together with prejudgment interest thereon in the amount of \$16,499, and that Defendant McKinney is jointly and severally liable with his company, Defendant International Trading Partners, Ltd., for disgorgement in the amount of \$1,434,757 and prejudgment interest in the amount of \$294,632. Defendant McKinney shall also pay a civil penalty in the amount of \$250,000 pursuant to Section 20(d)(2) of the Securities Act [15 U.S.C. § 77t(d)(2)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. Defendant McKinney shall satisfy this obligation by paying the disgorgement, prejudgment interest and civil penalty imposed against him, including the obligations imposed against him jointly and severally with Defendant International Trading Partners, Ltd., within ten business days to the Court-appointed Receiver, together with a cover letter identifying McKinney as a Defendant in this action; setting forth the title and civil action number of this action; and specifying that payment is made pursuant to this Final Judgment. Defendant McKinney shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action. By making this payment, Defendant McKinney relinquishes all legal and equitable right, title, and interest in

such funds, and no part of the funds shall be returned to Defendant McKinney. Defendant McKinney shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961.

The Commission or the Court-appointed Receiver may by motion propose a plan to distribute the funds paid by Defendant McKinney subject to the Court's approval. Such a plan may provide that funds paid by Defendant McKinney shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendant McKinney shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Defendant McKinney's payment of disgorgement in this action, argue that he is entitled to, nor shall he further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Defendant McKinney's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Defendant McKinney shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this Judgment. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Defendant McKinney by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this

action.

VI.

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

Dated: 2-27-2007, \_\_\_\_\_



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EDMUND A. SARGUS, JR.  
UNITED STATES DISTRICT JUDGE