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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

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CLERK, U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

SECURITIES AND EXCHANGE COMMISSION,)

Plaintiff,)

v.)

EARL A. ABBOTT, RICHARD L. STALVEY,)
GLENN PERDUE, ROBERT E. GERWIN and)
KENNETH C. NUNN,)

Defendants,)

and)

THOMAS J. O'KEEFFE,)

Relief Defendant.)
_____)

Case No. 6:01-cv-364-Orl-31KRS

**FINAL JUDGMENT OF
PERMANENT INJUNCTION, DISGORGEMENT AND OTHER RELIEF
AS TO DEFENDANT KENNETH C. NUNN**

Plaintiff Securities and Exchange Commission ("Commission") having filed a Complaint for Injunctive and Other Relief on March 22, 2001, defendant Kenneth C. Nunn ("Nunn") having filed an Answer on May 4, 2001, the Commission having filing a motion for summary judgment against Nunn on September 13, 2002, and the Court having granted the Commission's motion for summary judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Nunn and his agents, servants, employees, attorneys, successors or assigns, and those persons in active concert or participation with him who receive actual notice of this Final Judgment, are permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §77q(a)] by, directly or indirectly, 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 the use of the mails: (a) employing any device, scheme or artifice to defraud; (b) obtaining money or property by means of any untrue statement of a material fact or any omission 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 transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser of such security.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Nunn and his agents, servants, employees, attorneys, successors or assigns, and those persons in active concert or participation with him who receive actual notice of this Final Judgment, are permanently restrained and enjoined from violating 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] by, directly or indirectly, by the use of 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) 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.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Nunn and his agents, servants, employees, attorneys, successors or assigns, and those persons in active concert or participation with them who receive actual notice of this Final Judgment, are permanently restrained and enjoined from violating Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§77e(a), (c)] by, directly or indirectly: (a) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell any security, through the use or medium of any prospectus or otherwise, unless a registration statement is in effect as to such security; (b) carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any security for the purpose of sale or for delivery after sale, unless a registration statement is in effect as to such security; or (c) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy, through the use or medium of any prospectus or otherwise, any security unless a registration statement has been filed as to such security, or while the registration statement as to such security is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or

examination under Section 8 of the Securities Act [15 U.S.C. §77h], provided, however, that the provisions of this paragraph shall not apply to any security or transaction which is exempt from the provisions of Section 5 of the Securities Act [15 U.S.C. §77e].

IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Nunn and his agents, servants, employees, attorneys, successors or assigns, and those persons in active concert or participation with them who receive actual notice of this Final Judgment, are permanently restrained and enjoined from violating Section 15(a) of the Exchange Act [15 U.S.C. §78o(a)] by 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 it is registered as a broker or dealer in accordance with Section 15(b) of the Exchange Act [15 U.S.C. §78o(b)].

V.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Nunn is liable for disgorgement of \$401,000, representing profits gained as a result of the conduct alleged in the Complaint, plus pre-judgment interest in the amount of \$126,421, for a total disgorgement amount of \$527,421. Nunn shall make this payment within thirty days after entry of this Final Judgment. The payment shall be made by money order, certified check or cashier's check made payable to the Clerk, United States District Court for the Middle District of Florida. The payment shall be mailed to the Clerk of this Court at the U.S. District Court for the Middle

District of Florida – Orlando Division, 80 North Hughey Avenue, Orlando, FL 32801, with a cover letter identifying Nunn, the name and number of this action, and the name of this Court, and copies of the payment and cover letter shall be mailed to Frank C. Huntington, Securities and Exchange Commission, 73 Tremont Street, Suite 600, Boston, MA 02108. The disgorged funds and prejudgment interest shall be held by the Registry of this Court in an interest-bearing account pending further order of the Court. Upon payment of the disgorgement obligation set forth above, Nunn shall relinquish all legal and equitable right, title and interest in such payment, and no part of the funds shall be returned to him.

VI.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to Section 20(d) of the Securities Act [15 U.S.C. §77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. §78u(d)(3)], Nunn shall pay a civil monetary penalty of \$200,000. Within thirty days of entry of this Final Judgment, Nunn shall make the payment by United States postal money order, certified check, bank cashier's check or bank money order payable to the Securities and Exchange Commission. Nunn shall mail the payment to the Comptroller, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Alexandria, Stop 0-3, VA 22312 under cover of a letter that identifies Nunn, the name and number of this action, and the name of this Court. Nunn shall mail a copy of the payment and the accompanying cover letter to Frank C. Huntington, Securities and Exchange Commission, 73 Tremont Street, Suite 600, Boston, MA 02108.


VII.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction over Nunn as a party to this matter for all purposes, including the implementation and enforcement of this Final Judgment.

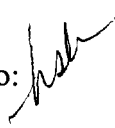
VIII.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that, the Court finding no just reason for delay, the entry of this Judgment shall constitute a final judgment as to all of the Commission's claims against Nunn in this action, and the Clerk of the Court is directed to enter this Final Judgment forthwith pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

DONE AND ORDERED at Orlando, Florida, this 30 day of October, 2002.



GREGORY A. PRESNELL
UNITED STATES DISTRICT JUDGE

Copies to: 

Counsel of Record