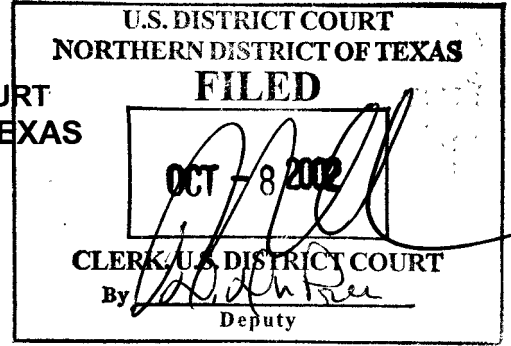


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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION



SECURITIES AND EXCHANGE COMMISSION,

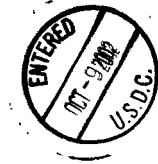
Plaintiff,

vs.

SMART-MART, INC.,  
A Texas Corporation,  
TIMOTHY MCMURRAY, and  
BRADLEY D. WOY

Defendants.

Civil Action No.  
3:01-CV-0397-M *dyh*  
3:01 cv 397 - M



**AGREED JUDGMENT BY CONSENT OF PERMANENT INJUNCTION  
AND OTHER EQUITABLE RELIEF AGAINST TIMOTHY MCMURRAY**

Plaintiff Securities and Exchange Commission ("Commission"), having filed its Complaint in this matter and defendant Timothy McMurray ("McMurray"), through his Stipulation and Consent ("Consent"), having admitted service of the Complaint and waived service of the summons, having admitted the jurisdiction of this Court over him, having waived the entry of findings of facts and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, having entered into his Consent voluntarily, no threats, promises of immunity or assurances having been made by the Commission or by any of its members, officers, agents or representatives to induce McMurray to enter into his Consent, having consented, without admitting or denying any of the allegations in the Commission's Complaint, except as to jurisdiction as set forth above, to entry without further notice of this Agreed Final Judgment of Permanent Injunction By Consent and Other Equitable Relief ("Agreed Final Judgment") enjoining defendant McMurray from engaging in transactions,

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acts, practices and courses of business which constitute and would constitute violations of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. §§ 77e(a), 77e(c) and 77(q)(a)], and Section 10(b), of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. §78j(b)], and Rule 10b-5 [17 C.F.R. §§240.10b-5] promulgated thereunder; and it further appearing that this Court has jurisdiction over defendant McMurray and over the subject matter of this action and that no further notice of hearing for the entry of this Agreed Final Judgment need be given; and the Court being fully advised in the premises;

**I.**

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that defendant McMurray and his agents, servants, employees, attorneys-in-fact and all other persons in active concert or participation with him who receive actual notice of this Agreed Final Judgment by personal service or otherwise, be and hereby are permanently restrained and enjoined from violating Section 10(b) of the Exchange Act, [15 U.S.C. §78j(b)] and Rule 10b-5, [17 C.F.R. §240.10b-5] promulgated thereunder, directly or indirectly, in connection with the purchase or sale of securities, in the form of common stock or any other security, from making use of any means or instrumentalities of interstate commerce or of the mails, or of any facility of any national securities exchange:

- (a) to employ any device, scheme or artifice to defraud;
- (b) to make any untrue statement of a material fact or 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 McMurray and his agents, servants, employees, attorneys-in-fact and all other persons in active concert or participation with him who receive actual notice of this Agreed Final Judgment by personal service or otherwise, and each of them, be and hereby are permanently restrained and enjoined, in the offer or sale of securities, from violating Section 17(a) of the Securities Act, [15 U.S.C. § 77q(a)], by making use of any means or instruments of transportation or communication in interstate commerce, or 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 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; and/or
- (c) to engage in any transaction, practice or course of business which operates or would operate as a fraud or deceit upon any purchaser.

**III.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that defendant McMurray and his agents, servants, employees, attorneys-in-fact and all other persons in active concert or participation with him who receive actual notice of this Agreed Final Judgment by personal service or otherwise, and each of them, be and hereby are permanently restrained and enjoined from, in the offer or sale of securities, from violating

Sections 5(a) and 5(c) of the Securities Act of 1933 [15 U.S.C. §§ 77e(a) and 77e(c)], in the offer or sale of securities, by:

(a) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell the securities of any issuer, through the use or medium of any prospectus or otherwise, unless and until a registration statement is in effect as to such securities;

(b) carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or for delivery after sale, the securities of any issuer, unless and until a registration statement is in effect as to such securities; 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 the securities of any issuer, unless and until a registration statement has been filed with the Commission as to such securities, or while a registration statement as to such securities is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding of examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

#### IV.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that defendant McMurray shall pay disgorgement in the amount of \$189,027, plus prejudgment interest of \$72,411. Within 90 days of the entry of this Order, defendant McMurray shall make payment of the above-specified sums in the form of a cashiers check, certified check or

postal money order payable to the "Securities and Exchange Commission" under cover of a letter that identifies the defendant making payment, the caption and case number of this action and the name of this Court. Defendant McMurray shall transmit the payments and accompanying cover letters to Harold F. Degenhardt, District Administrator, Securities and Exchange Commission, Fort Worth District Office, 801 Cherry Street, 19<sup>th</sup> Floor, Unit 18, Fort Worth, Texas 76102.

V.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that based upon defendant McMurray's sworn representations in his Sworn Statement of Financial Condition, the Court is not ordering him to pay a civil money penalty pursuant to the provisions of 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)]. The determination not to impose a civil penalty is contingent upon the accuracy and completeness of defendant McMurray's Sworn Statement of Financial Condition. If at any time following the entry of this Final Judgment the Commission obtains information indicating that defendant McMurray's representations to the Commission 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 Commission may, at its sole discretion and without prior notice to McMurray, petition this Court for an order requiring McMurray to pay disgorgement, prejudgment interest and a civil penalty. In connection with any such petition, the only issues shall be whether the financial information provided by defendant McMurray 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 Commission may move this Court to consider all available remedies, including, but not limited to, ordering defendant McMurray to turn over funds and assets, directing the forfeiture of any assets, or sanctions for contempt of this Final Judgment, and the Commission may also request additional discovery. Defendant McMurray may not, by way of defense to such petition, challenge the validity of his Consent or this Final Judgment, contest the allegations should not be ordered.

**VI.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Consent filed herein be, and the same is hereby, incorporated in this Agreed Final Judgment with the same force and effect as if fully set forth herein.

**VII.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that this Court shall retain jurisdiction of this action for all purposes, including for purposes of entertaining any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court, including but not limited to the relief requested by the Commission in its Complaint in this action.

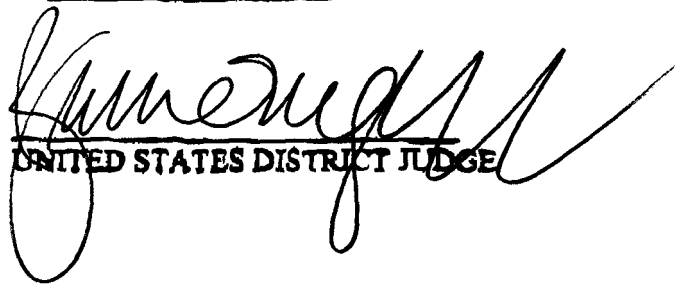
VIII.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that this Agreed Final Judgment may be served upon defendant McMurray in person or by mail either by the United States marshal, by the Clerk of the Court or by any member of the staff of the Commission.

IX.


**IT IS FINALLY ORDERED, ADJUDGED AND DECREED** that, pursuant to the Court's express determination that there is no just reason for delay and pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is hereby directed to enter judgment accordingly.

DATED and SIGNED this 8 day of October, 2002.

  
UNITED STATES DISTRICT JUDGE

Agreed as to Form and Substance:

  
TIMOTHY MCMURRAY

  
F. SCOTT PFEIFFER  
Counsel for Timothy McMurray