

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SECURITIES AND EXCHANGE COMMISSION
450 Fifth Street, N.W.
Washington, DC 20549-0708,

Plaintiff,

v.

DANIEL R. DUGAN,

Defendant.

01 0940

Case No. _____

FILED

MAY 16 2001

**NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT**

**FINAL JUDGMENT OF PERMANENT INJUNCTION
AND OTHER RELIEF AS TO DANIEL R. DUGAN**

Plaintiff Securities and Exchange Commission ("Commission"), having filed its Complaint, and defendant Daniel R. Dugan ("Dugan") having in his Consent of Daniel R. Dugan ("Consent"), which was filed simultaneously with this Final Judgment of Permanent Injunction and Other Relief as to Daniel R. Dugan ("Final Judgment") and incorporated herein by reference, entered a general appearance, admitted the jurisdiction of this Court over him and over the subject matter of this action, waived service of process, waived the filing of an Answer to the Complaint and the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, waived any right he might have to appeal from the entry of this Final Judgment, and, without admitting or denying any of the allegations of the Complaint except as to jurisdiction, which he admits, consented to the entry of this Final Judgment, and it appearing that this Court has jurisdiction over Dugan and over the subject matter hereof, and the Court being fully advised in the premises:

(1)

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I.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Dugan, his agents, servants, employees, attorneys-in-fact, and those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, be and hereby are permanently restrained and enjoined from violating, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of a national securities exchange, Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by:

- (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 light of the circumstances under which they are 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 connection with the purchase or sale of any security.

II.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Dugan, his agents, servants, employees, attorneys-in-fact, and those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, be and hereby are permanently restrained and enjoined from violating Section 14(e) of the Exchange Act [15 U.S.C. §78n(e)] and Rule 14e-3 promulgated thereunder [17 C.F.R.

§ 240.14e-3] by, if any person has taken a substantial step or steps to commence or has commenced a tender offer:

- (1) purchasing or selling or causing to be purchased or sold the securities sought or to be sought by such tender offer or any security convertible into or exchangeable for any such security or any option or right to obtain or dispose of the foregoing securities, while in possession of material information relating to said tender offer which information they know or have reason to know is nonpublic and which they know or have reason to know was acquired directly or indirectly from:
 - (a) a person who has taken a substantial step or steps to commence such a tender offer ("the offering person");
 - (b) the issuer of the securities sought or to be sought by such tender offer; or
 - (c) any officer, director, partner, employee, or other person acting on behalf of the offering person or such issuer,unless within a reasonable time prior to any such purchase or sale such information and its source are publicly disclosed; or they purchase any such security while acting in the capacity of a broker or agent on behalf of the offering person; or they sell any such security to the offering person; or
- (2) *communicating material, nonpublic information relating to such a tender offer*, which information they know or have reason to know was acquired directly or indirectly from:
 - (a) the offering person;
 - (b) the issuer of the securities sought or to be sought in such tender offer; or

(c) any person acting on behalf of the offering person or on behalf of such issuer,

to any person under circumstances in which it is reasonably foreseeable that such communication is likely to result in the purchase or sale of securities in the manner described in Paragraph II(1), above, of this Final Judgment, *provided, however*, that this Paragraph shall not apply to a communication made in good faith to:

- (a) the officers, directors, partners, or employees of the offering person, to its advisors or to other persons involved in the planning, financing, preparation, or execution of such tender offer;
- (b) the issuer whose securities are sought or to be sought by such tender offer, to its officers, directors, partners, employees, or advisors or to other persons involved in the planning, financing, preparation, or execution of the activities of the issuer with respect to such tender offer; or
- (c) any person pursuant to a requirement of any statute or rule or regulation promulgated thereunder.

III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Dugan shall pay disgorgement of \$648,101.60, representing all profits obtained as a result of the conduct alleged in the Complaint, plus prejudgment interest thereon of \$4,860.76.

IV.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Dugan shall pay a civil penalty in the amount of \$360,848.85 pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1], predicated on the acts alleged in the Complaint.

V.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Dugan shall pay the disgorgement and prejudgment interest, which total \$652,962.36, within ten (10) business days after entry of this Final Judgment, by bank cashier's check, certified check, United States postal money order, or bank money order payable to "Clerk, United States District Court for the District of Columbia," under a cover letter to the Office of the Clerk, United States District Court for the District of Columbia, 333 Constitution Avenue, N.W., Room 1225, Washington, DC 20001, which identifies Dugan, 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 Scott W. Friestad, 450 Fifth Street, N.W., Washington, D.C., 20549-0708. Dugan's obligation under this paragraph will be satisfied when – pursuant to instructions he previously gave to the irrevocable Trust established in favor of the SEC on December 15, 2000 – the Trust makes this payment on his behalf, in the manner prescribed above.

VI.

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, defendant Dugan reaffirms that he relinquishes all legal and equitable right, title and interest in those funds, and no part of such funds shall be returned to defendant Dugan or the Dugan Family Trust, U/A, dated

September 29, 1993, or to any of their successors or assigns. The Commission will thereafter submit for the Court's consideration proposed orders for disposition of such funds.

VII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Dugan shall pay the civil penalty in the amount of \$360,848.85 within ten (10) business days after entry of this Final Judgment, by bank cashier's check, certified check, United States postal money order, or bank money order payable to the "Securities and Exchange Commission." The payment shall be hand-delivered or mailed to the Office of the Comptroller, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312. The payment shall be accompanied by a letter that identifies Dugan as the defendant on whose behalf the payment is being made, the caption and case number of this action, the name of this Court, and the Commission's internal file number for this matter (HO-09087). Copies of such check or money order and accompanying cover letter shall be simultaneously transmitted to Scott W. Friestad, 450 Fifth Street, N.W., Washington, D.C. 20549-0708. At such time as such funds are paid to the Commission, defendant Dugan relinquishes all legal and equitable right, title and interest in those funds, and no part of such funds shall be returned to defendant Dugan or the Dugan Family Trust, U/A, dated September 29, 1993, or to any of their successors or assigns.

VIII.

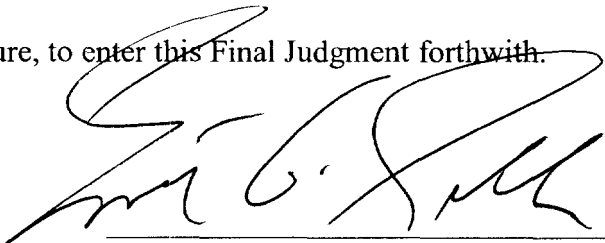
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Consent be, and hereby is, incorporated herein by reference with the same force and effect as if fully set forth herein and that defendant Dugan shall fully comply with all of the undertakings and agreements incorporated herein.

IX.

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

X.

There being no 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.



UNITED STATES DISTRICT JUDGE

Dated: 5/15/, 2001