



over Guerrero and Banrise for this action and jurisdiction over the subject matter of this action, and the Court being fully advised in the premises, and there being no just reason for delay:

**I.**

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Guerrero and Banrise and their agents, servants, employees, attorneys-in-fact, assigns, 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, be and they hereby are permanently restrained and enjoined from, directly or indirectly, through the use of any means or instrumentality of interstate commerce or of the mails, or of the facilities of a national securities exchange:

- (1) employing any device, scheme, or artifice to defraud,
- (2) 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 were made, not misleading, or
- (3) engaging in any transaction, act, practice, or course of business which operates or would operate as a fraud or deceit on any person, in connection with the purchase or sale of any security;

in violation of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

**II.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Guerrero and Banrise and their agents, servants, employees, attorneys-in-fact, assigns, and all persons in active concert or participation with any of them, and each of them, be and hereby are permanently

restrained and enjoined from, directly or indirectly, in connection with any tender offer or request or invitation for tenders, engaging in any fraudulent, deceptive, or manipulative act or practice by:

1. trading in the securities sought or to be sought in such tender offer while in possession of material, non-public information relating to said tender offer which they know or have reason to know is non-public and know or have reason to know was acquired directly or indirectly from the offering person, the issuer of the securities sought or to be sought by such tender offer, or any officer, director, partner, employee or other person acting on behalf of the offering person or such issuer, without disclosing such information and its source a reasonable time prior to trading, in violation of Section 14(e) of the Exchange Act [15 U.S.C. § 78n(e)] and Rule 14e-3 thereunder [17 C.F.R. § 240.14e-3]; or
2. communicating material, non-public information relating to a tender offer, which information they know or have reason to know is non-public and know or have reason to know was acquired directly or indirectly from the offering person, the issuer of the securities sought or to be sought in the tender offer, or any person acting on behalf of the offering person or such issuer, to any other person under circumstances in which it is reasonably foreseeable that such communication is likely to result in violation of Section 14(e) of the Exchange Act [15 U.S.C. § 78n(e)] and Rule 14e-3 thereunder [17 C.F.R. § 240.14e-3].

### **III.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Guerrero and Banrise shall pay, jointly and severally, disgorgement and prejudgment interest of \$1,550,000.

**IV.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Bears Stearns & Co., Inc. shall, from the funds of Guerrero and Banrise held by it and currently frozen by order of this Court, deliver into this Court's registry within ten (10) business days of the entry of the Final Judgment, a check in the amount of \$1,550,000 representing the disgorgement and prejudgment interest as described in paragraph III, above, drawn to the order of "CLERK, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK." The check shall bear on its face the caption "SECURITIES AND EXCHANGE COMMISSION v. ALEJANDRO DUCLAUD GONZALEZ DE CASTILLA, *ET AL.*, Civil Action No. 01 Civ. 3999 (RWS)," and be transmitted to the Clerk under cover of a letter that identifies Guerrero and Banrise, 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 John D. Worland, Jr., Assistant Chief Litigation Counsel, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0911. Any frozen funds of Guerrero and Banrise remaining with Bears Stearns & Co., Inc., if any, have been paid are hereby unfrozen and may be returned to Banrise, its successors or assigns.

**V.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the Clerk of this Court, or the Financial Deputy Clerk, is hereby directed to deposit said check referred to in the immediately preceding paragraph into an interest bearing account (the "Account") with the Court Registry Investment System ("CRIS"). The Account shall be held by the CRIS until further order of the Court, and shall thereafter be distributed pursuant to a plan for disposition of disgorgement funds, to be filed by the SEC with the Court, but in no event shall any of the funds paid into the

Registry of the Court revert, directly or indirectly, to Guerrero and Banrise, their successors or assigns.

**VI.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that interest earned on the Account shall be credited to the Account and shall thereafter be treated in the same manner as principal. The Clerk of the Court is directed to deduct from the income earned on the investment a fee, not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office at or equal to 10% of the income earned on the investment so held and without further order of the Court.

**VII.**

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

**VIII.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Guerrero and Banrise shall fully comply with his Undertakings as set forth in the Consent.

**IX.**

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

**X.**

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

Dated: \_\_\_\_\_, 2002

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Robert W. Sweet  
UNITED STATES DISTRICT JUDGE