

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

ERIC E. RESTEINER,  
VOLDEMAR A. VONSTRASDAS,  
MILES M. HARBUR,  
CHARLES G. DYER,  
RESOURCE F, LLC, and  
BUNKER HILL AVIATION, LLC,

Defendants.

U.S. DISTRICT COURT  
DISTRICT OF MASS.

Civil Action No. 01-CV-10637(PBS)

**FINAL JUDGMENT AGAINST DEFENDANT MILES M. HARBUR**

Plaintiff Securities and Exchange Commission ("Commission"), having filed a Complaint ("Complaint"); and Defendant Miles M. Harbur ("Harbur"), in the annexed Consent of Defendant Miles M. Harbur ("Consent"), having entered a general appearance, having admitted to the jurisdiction of this Court over him and over the subject matter of this action, having waived the entry of findings of fact and conclusions of law under Rule 52 of the Federal Rules of Civil Procedure with respect to this Final Judgment Against Defendant Harbur ("Final Judgment"), and, without admitting or denying the allegations of the complaint ("Complaint"), except as to jurisdiction and service, which he admits, having consented to the entry of this Final Judgment: permanently restraining and enjoining him from violating Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77e(a), 77e(c) and 77q(a)]; and Sections 10(b) and 15(a)

of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78j(b) and 78o(a)], and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5]; and ordering disgorgement of \$1.1 million, plus prejudgment interest thereon; except that all of such amount is waived based on Defendant Harbur's sworn representations in his Statement of Financial Condition dated October 4, 2002 and other documents submitted to the Commission ("Financial Statement"), and moreover does not assess a civil penalty, based upon his Financial Statement demonstrating an inability to pay; and it further appearing that this Court has jurisdiction over Defendant Harbur and the subject matter hereof, and the Court being fully advised in the premises:

**I.**

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Defendant Harbur, his agents, servants, employees, attorneys-in-fact, successors and assigns, and all 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 17(a) of the Securities Act [15 U.S.C. § 77q(a)], by, directly or indirectly, in the offer or sale of any security, using any means or instruments of transportation or communication in interstate commerce, or of the mails:

- (a) to employ any device, scheme or artifice to defraud; or
- (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; or

- (c) to engage in any transaction, act, practice, or course of business which operates or would operate as a fraud upon the purchaser.

**II.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant Harbur, his agents, servants, employees, attorneys-in-fact, successors and assigns, and all 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 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5] by, directly or indirectly, using any means or instrumentality 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 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, in connection with the purchase or sale of any security.

**III.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant Harbur, his agents, servants, employees, attorneys-in-fact, successors and assigns, and all 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 Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)], by, directly or indirectly, in the absence of any applicable exemption:

- (a) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell securities through the use or medium of a 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 a prospectus or otherwise any security, unless a registration statement has been filed as to such security, or while a 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].

#### IV.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant Harbur, his agents, servants, employees, attorneys-in-fact, successors and assigns and all 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 15(a) of the Exchange Act [15 U.S.C. § 78o(a)] by, directly or indirectly, effecting securities transactions for the account of others or engaging in business as a dealer without being registered as a broker-dealer or being associated with a registered broker-dealer for purposes of those transactions or that business.

**V.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant Harbur is liable for disgorgement in the amount of \$1.1 million, representing his gains from the conduct alleged in the Complaint, together with pre-judgment interest in the amount of \$201,817.64. Based upon Defendant's sworn representations in his Financial Statement, payment of all the disgorgement and pre-judgment interest thereon is waived, contingent upon the accuracy and completeness of Defendant's Financial Statement.

**VI.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that based on Defendant Harbur's sworn representations in his Financial Statement, the Court is not ordering him to pay a civil penalty. The determination not to impose a civil penalty and to waive payment of the disgorgement and pre-judgment interest thereon is contingent upon the accuracy and completeness of Defendant's Financial Statement. If, at any time following the entry of this Final Judgment, the Commission obtains information indicating that Defendant Harbur'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 Defendant Harbur,

petition the Court for an order requiring Defendant Harbur to pay the unpaid portion of the disgorgement, pre-judgment and post-judgment interest thereon, and the maximum civil penalty allowable under the law. In connection with any such petition, the only issue shall be whether the financial information provided by Defendant Harbur was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made. In its petition, the Commission may move this Court to consider all available remedies, including, but not limited to, ordering Defendant Harbur to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of this Final Judgment. The Commission may also request additional discovery. Defendant Harbur may not, by way of defense to such petition: (1) challenge the validity of his Consent or this Final Judgment; (2) contest the allegations in the Complaint filed by the Commission; (3) assert that payment of disgorgement, pre-judgment and post-judgment interest or a civil penalty should not be ordered; (4) contest the amount of disgorgement and pre-judgment and post-judgment interest; (5) contest the imposition of the maximum civil penalty allowable under the law; or (6) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

## VII.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant Harbur shall not make or cause to be made on his behalf any claim against a disgorgement fund created from assets disgorged by, or otherwise obtained from, any of the Defendants in this action, for distribution to investors who suffer or have suffered losses from the offer and sale of securities by any of the Defendants as alleged in this action.

**VIII.**

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

**IX.**

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

**X.**

There being no just reason 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.

**DONE AND ORDERED** at Boston, Massachusetts, this 16 day of November

2002.

  
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**HONORABLE PATTI B. SARIS**  
**UNITED STATES DISTRICT JUDGE**