

2004, and an accompanying Appendix of exhibits, and the Commission having filed a Notice of Motion, pursuant to Fed. R. Civ. P. 55(b), for a final judgment by default against Diversified and a Declaration of Howard S. Kim, dated January 30, 2003, and an accompanying Appendix of exhibits, and the Court having found that it has jurisdiction over Defendants and over the subject matter of this action and the jurisdiction to grant the relief requested by the Commission, and good cause appearing for the entry of this Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants, and Defendants' agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] 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 use 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 material fact or any omission 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
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

II.

IT IS FURTHER HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants, and Defendants' agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)], and Rule 10b-5 promulgated thereunder [17 C.F.R. §240.10b-5], by using 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) 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 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.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants, and Defendants' agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1), 80b-6(2)], by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud any client or prospective client; or
- (b) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants are hereby jointly and severally liable for disgorgement of \$555,800, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$353,682.84, for a total of \$909,482.82. Any payment that Alvieri makes to his victims in satisfaction, in whole or in part, of the restitution obligations imposed on him in the criminal action known as *United States v. Dominique S. Alvieri*, 02 Cr. 84 (GEL), shall reduce Defendants' obligation to make disgorgement payment required by this judgment *pro tanto*. Any payment Defendants make to satisfy disgorgement, in whole or in part, shall be delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be accompanied by a letter identifying Defendants in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Final Judgment. Defendants shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Diversified shall pay a civil penalty in the amount of \$555,000.00, or the gross amount of Defendant Diversified's pecuniary gain as a result of violations, pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), and Section 209(e) of the Advisers Act, 15 U.S.C. § 80b-9(e). Defendant Diversified shall make this payment within ten (10) business days after entry of this Judgment by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. The payment shall be delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be accompanied by a letter identifying Defendants in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Judgment. Defendant Diversified shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Alvieri shall not pay a civil penalty. In light of his criminal prosecution and sentence, and the unique facts of this case, the Court has determined that a civil penalty against Defendant Alvieri is not necessary to further foster disgorgement of ill-gotten gains, deterrence, public confidence in the

securities system, or stability in the securities market. See e.g., S.E.C. v. Palmisano, 135 F.3d 860, 865 (2d Cir. 1998).

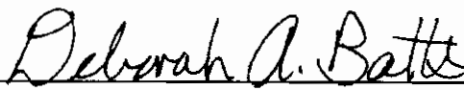
VII.

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

VIII.

IT IS FURTHER ORDERED that there being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Judgment forthwith and without further notice.

Dated: New York, New York
March 28, 2008


The Honorable Deborah A. Batts,
United States District Judge