

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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12/3/02

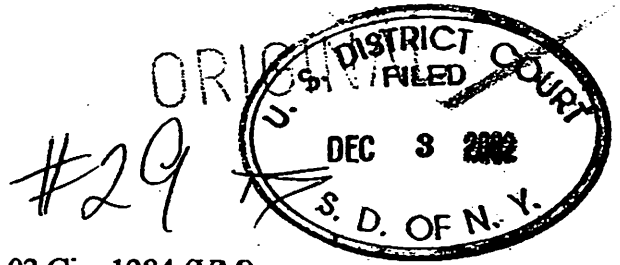
SECURITIES AND EXCHANGE COMMISSION

Plaintiff,

- against -

ANTHONY BURGES
and BURGES ASSET MANAGEMENT, INC.,

Defendants.



02 Civ. 1284 (VM)

**FINAL JUDGMENT
OF PERMANENT INJUNCTION
AND OTHER RELIEF AGAINST
ANTHONY BURGES
AND BURGES ASSET
MANAGEMENT, INC.**

#02,2498

Plaintiff Securities and Exchange Commission ("Commission"), having commenced this action by filing a Complaint on February 19, 2002, for a permanent injunction and other equitable relief; defendants Anthony Burges and Burges Asset Management, Inc. ("Burges Asset") each having been served with a copy of the Summons and Complaint on February 22, 2002; defendants Burges and Burges Asset having failed to answer, move, or otherwise respond to the Commission's Complaint as required by Federal Rule of Civil Procedure 12; the Court having provided defendants Burges and Burges Asset, and the Commission, the opportunity to be heard, and having heard any arguments that may have been put forth; and there being no just reason for delaying the entry of this Final Judgment:

I.

IT IS ORDERED, ADJUDGED, AND DECREED that defendants Burges and Burges Asset, and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them, are hereby permanently enjoined and restrained, directly or

indirectly, singly or in concert, in the offer or sale of any securities by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, from:

- (A) employing any device, scheme, or artifice to defraud;
- (B) obtaining 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 light of the circumstances under which they were made, not misleading;
or
- (C) engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser,

in violation of Section 17(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. § 77q(a).

II.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that defendants Burges and Burges Asset, and their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them, are hereby permanently enjoined and restrained, directly or indirectly, singly or in concert, in connection with the purchase or sale of any security, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange, from:

- (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 the light of the circumstances under which they were 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 violation of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15

U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Burges and

(Two Hundred Eighty-Four Thousand Three Hundred Twenty-Two Dollars and Fifty Cents)

Burges Asset shall, jointly and severally, disgorge *(\$284,322.50)*, representing their ill-gotten

gains of \$266,126 from their fraudulent conduct, plus prejudgment interest thereon in the amount

(Eighteen Thousand One Hundred Ninety-Six Dollars and Fifty Cents,

of \$18,196.50) to November 30, 2002, applying the floating interest rate used by the Internal Revenue Service pursuant to 17 C.F.R. § 201.600(b) from a starting date of March 27, 2001. **IV.**

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that payment under

Paragraph III. of this Final Judgment shall be made as follows:

- (A) Such payment shall be made within ten days following the entry of this Final Judgment;
- (B) Such payment shall be paid into the registry of this Court by certified check or U.S. Postal Money Order drawn to the order of "Clerk, United States District Court, S.D.N.Y.," whereupon the Clerk of this Court, or Financial Deputy, is hereby directed to deposit said check or money order into the Court Registry Investment System account for this civil action ("C.R.I.S. Account");
- (C) Simultaneous with making any payment pursuant to subparagraph (B) above, Burges and Burges Asset shall transmit copies of any certified check or money order, front and back, to Timothy G. Hansen, Esq., Securities and Exchange Commission, Northeast Regional Office, 233 Broadway, New York, NY, 10279, under cover of a letter that identifies both defendants, the name and civil action

number of this litigation, and the court in which it was brought. The cover letter also shall identify that the payment is a payment towards the disgorgement and prejudgment interest thereon that has been ordered in this action;

- (D) Funds in the C.R.I.S. Account shall be held until further order of the Court. In no even shall any portion of the C.R.I.S. Account be returned to Burges or Burges Asset or their agents, successors, or assigns;
- (E) Interest earned on the C.R.I.S. Account shall be credited to the C.R.I.S. Account and shall thereafter be treated in the same manner as principal;
- (F) Prior to making any disbursements from the C.R.I.S. Account, the Custodian of the C.R.I.S. Account is directed to deduct from the income on the investment a fee, equal to ten percent (10%) of the income earned, but not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office, for deduction in the investment so held without further order of the Court.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Burges and Burges Asset shall jointly and severally pay (SIXTY THOUSAND DOLLARS AND NO CENTS) ~~\$ (20,000.00)~~ to the United States Treasury as a civil penalty pursuant to 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).

VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that all payments under Paragraph V. of this Final Judgment shall be:

- (A) made by the United States postal money order, certified check, bank cashier's

- check or bank money order;
- (B) made payable to the Securities Exchange Commission;
 - (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312 within 30 days from the date of entry of this Final Judgment; and
 - (D) submitted under cover letter that identifies Burges and Burges Asset as Defendants in these proceedings, the name and civil action number of this litigation, and the court in which it was brought. The cover letter shall also contain the investigation name (Burges Asset Management, Inc.) and the case number assigned by the Commission staff (NY-6949) and shall identify the payment as payment of civil penalty and post-judgment interest. Copies of the cover letter and payment shall be simultaneously transmitted to: Timothy G. Hansen, Esq., United States Securities and Exchange Commission, Northeast Regional Office, 233 Broadway, New York, NY, 10279.

VII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Commission may effect service of this Final Judgment upon both Burges and Burges Asset by delivering, sending by Federal Express (no signature required), or faxing, one copy of this Final Judgment (1) to Michael Musa-Obregon, Esq. at 21 East 40th Street, Suite 901, New York, NY 10016 (facsimile number: 212-545-0955), and (2) to Anthony Burges, at the following address: 1203 Waring Avenue, Bronx, New York, 10469-5431.

VIII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for all purposes, including the implementation and enforcement of this Final Judgment.

IX.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Federal Rule of Civil Procedure 65(d), this Final Judgment is binding on Burges and Burges Asset, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service of otherwise.

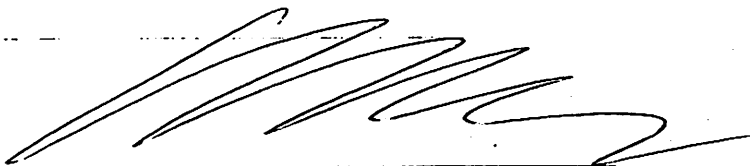
X.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, there being no just reason for delay, the clerk of Court is hereby directed to enter this Final Judgment forthwith.

SO ORDERED:

Dated: 2 December, 2002

New York, New York



Hon. Victor Marrero
United States District Judge

CERTIFIED COPY
MICHAEL McMAHON, CLERK
Melanie L. Lopez
DEPUTY CLERK

RECORDED AND INDEXED
ON THE DOCKET ON 12/6/02