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9 UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF MASSACHUSETTS

11 SECURITIES AND EXCHANGE
12 COMMISSION,

13 Plaintiff,

14 vs.

15 JOHN GOMERSALL AND BARRY
16 MCGRIFF,

17 Defendants.

02-11680-REK
Civil Action No.

**FINAL JUDGMENT OF
PERMANENT INJUNCTION AND
OTHER RELIEF AGAINST
BARRY MCGRIFF**

20 Plaintiff Securities and Exchange Commission ("Commission"), having
21 filed and served upon Defendant Barry McGriff ("McGriff") a Summons and
22 Complaint in this action; Gomersall having admitted service upon him of the
23 Summons and Complaint in this action and the jurisdiction of this Court over him
24 and over the subject matter of this action; having been fully advised and informed
25 of his right to a judicial determination of this matter; having waived the entry of
26 findings of fact and conclusions of law as provided by Rule 52 of the Federal
27 Rules of Civil Procedure; having consented to the entry of this Final Judgment Of
28 Permanent Injunction And Other Relief Against Barry McGriff ("Judgment")

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1 without admitting or denying the allegations in the Complaint, except as
2 specifically set forth in the Consent Of Barry McGriff To Entry Of Final Judgment
3 Of Permanent Injunction And Other Relief ("Consent"); no notice of hearing upon
4 the entry of this Judgment being necessary; and this Court being fully advised:

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6 I.

7 IT IS ORDERED, ADJUDGED AND DECREED that McGriff and
8 his agents, servants, employees and attorneys, and all persons in active concert or
9 participation with any of them, who receive actual notice of this Judgment by
10 personal service or otherwise, and each of them, are permanently restrained and
11 enjoined from, directly or indirectly, in connection with the purchase or sale of any
12 security, by the use of any means or instrumentality of interstate commerce, or of
13 the mails, or of any facility of any national securities exchange:

14 A. employing any device, scheme, or artifice to defraud;
15 B. making any untrue statement of a material fact or omitting to state a
16 material fact necessary in order to make the statements made, in the
17 light of the circumstances under which they were made, not
18 misleading; or
19 C. engaging in any act, practice, or course of business which operates or
20 would operate as a fraud or deceit upon any person;

21 in violation of Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C.
22 § 78j(b) (the "Exchange Act"), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

23 II.

24 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that McGriff
25 shall pay disgorgement in the amount of \$10,824, representing ill-gotten gains as a
26 result of the conduct alleged in the Complaint, plus prejudgment interest
27 calculated pursuant to 28 U.S.C. § 1961 in the amount of \$1,890. McGriff shall

1 pay, by cashier's check, certified check, or postal money order, the total sum of
2 \$12,714 in disgorgement within thirty (30) days of entry of this Judgment. This
3 disgorgement payment shall be made payable to the Securities and Exchange
4 Commission and shall be transmitted to the Comptroller, Securities and Exchange
5 Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria,
6 VA 22312, under cover of a letter that identifies the defendant, the name and case
7 number of this litigation, and the court. Copies of this cover letter and the
8 certified check shall be simultaneously transmitted to counsel for the Commission
9 in this action at its Pacific Regional Office.

10 III.

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that McGriff
12 is assessed, and shall pay to the Commission for delivery to the United States
13 Treasury, civil penalties in the amount of \$10,824 pursuant to Section 21A of the
14 Exchange Act, 15 U.S.C. § 78u-1. McGriff shall pay the above penalty by
15 cashier's check, certified check, or postal money order within thirty (30) days of
16 entry of the Judgment. This payment shall be made payable to the United States
17 Treasury and shall be transmitted to the Comptroller, Securities and Exchange
18 Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria,
19 VA 22312, under cover of a letter that identifies the defendant, the name and case
20 number of this litigation, and the court. Copies of this cover letter and the
21 certified check shall be simultaneously transmitted to counsel for the Commission
22 in this action at its Pacific Regional Office.

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IV.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the provisions of the Consent filed concurrently with this Judgment are incorporated herein with the same force and effect as if fully set forth herein and that McGriff shall comply with his Consent.

V.

7 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this
8 Court shall retain jurisdiction over this action for all purposes, including to
9 implement and enforce the terms of this Judgment and other orders and decrees
10 which may be entered, and to grant such other relief as this Court may deem
11 necessary and just.

VI.

13 IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED
14 that during the pendency of this action against any defendant, McGriff shall
15 remain subject to the discovery provisions of the Federal Rules of Civil Procedure
16 which apply to parties, and, in addition, that McGriff agrees and undertakes,
17 without service of a subpoena, to appear for his deposition or to testify as a
18 witness at any trial of this action or at any related proceeding. Failure to comply
19 with the foregoing will subject McGriff to the remedies and sanctions set forth in
20 Rule 37 of the Federal Rules of Civil Procedure and all other available remedies.

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VII.

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

DATED: October 7, 2002

Robert E. Keeler
UNITED STATES DISTRICT JUDGE

Submitted By:

Janet R. Rich
Attorney for Plaintiff

Janet R. Rich
Attorney for Plaintiff
Securities and Exchange Commission