

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

03 MAY 13 AM 10:17

U.S. DISTRICT COURT
N.D. OF ALABAMA

_____ :
 SECURITIES AND EXCHANGE COMMISSION, :
 :
 Plaintiff, :
 :
 v. :
 ADAM J. GILBURNE, :
 :
 Defendant. :
 _____ :

Civil Action File No.

CV-03-AR-1087-S

ENTERED
MAY 13 2003

**FINAL JUDGMENT OF PERMANENT INJUNCTION
AND OTHER RELIEF AGAINST ADAM J. GILBURNE**

Plaintiff Securities and Exchange Commission (“Commission”), having filed its Complaint herein, and Defendant Adam J. Gilburne (“Gilburne”), having entered a general appearance, having admitted the in personam jurisdiction of this Court over him and the jurisdiction of this Court over the subject matter of the action, having waived entry of findings of fact and conclusions of law under Rules 52 and 65 of the Federal Rules of Civil Procedure, without admitting or denying the allegations of the Commission’s Complaint, except as to jurisdiction and venue which he admits, and having consented to the entry of this Final Judgment of Permanent Injunction and Other Relief (“Final Judgment”) and the Court being fully advised in the premises;

I.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Gilburne, and his agents, servants, employees and attorneys, and those persons in active concert or participation with him who receive actual notice of this Final Judgment, by personal

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service or otherwise, and each of them, be and hereby are permanently enjoined and restrained from violating, directly or indirectly, 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], by the use of any means or instrumentality of interstate commerce or of the mails or of any facility of any national securities exchange, by:

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 the light of the circumstances under which they were made, not misleading; or
3. engaging 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.

II.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Gilburne, and his agents, servants, employees, and attorneys, and those persons in active concert or participation with him who receive actual notice of this Final Judgment, by personal service or otherwise, and each of them, be and hereby are permanently enjoined and restrained from violating, directly or indirectly, Section 13(a) of the Exchange Act [15 U.S.C. §78m(a)] and Rules 12b-20, 13a-1 and 13a-13 thereunder [17 C.F.R. §§240.12b-20, 240.13a-1 and 240.13a-13], by:

1. filing any materially untrue, incorrect, false or misleading annual report of any issuer with a security registered pursuant to Section 12 of the Exchange Act

[15 U.S.C. §781] or any issuer which is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. §78o(d)];

2. filing any materially untrue, incorrect, false or misleading quarterly report of any issuer with a security registered pursuant to Section 12 of the Exchange Act [15 U.S.C. §781] or any issuer which is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. §78o(d)];
3. failing, in addition to information expressly required to be included in a statement or report, to add such further material information, if any, as may be necessary to make required statements, in the light of the circumstances under which they are made, not misleading.

III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Gilburne, and his agents, servants, employees, and attorneys, and those persons in active concert or participation with him who receive actual notice of this Final Judgment, by personal service or otherwise, and each of them, be and hereby are permanently enjoined and restrained from violating, directly or indirectly, Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. §78m(b)(2)(A)] by failing to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of any issuer which has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. §781] or any issuer which is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. §78o(d)].

IV.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Gilburne, and his agents, servants, employees, and attorneys, and those persons in active concert or participation with him who receive actual notice of this Final Judgment, by personal service or otherwise, and each of them, be and hereby are permanently enjoined and restrained from violating, directly or indirectly, Section 13(b)(5) of the Exchange Act [15 U.S.C. §78m(b)(5)] and Rule 13b2-1 thereunder [17 C.F.R. §240.13b2-1] by:

1. knowingly circumventing or knowingly failing to implement a system of internal accounting controls or knowingly falsifying any book, record, or account described in Section 13(b)(2) of the Exchange Act [§78m(b)(2)]; or
2. falsifying or causing to be falsified, directly or indirectly, any book, record or account subject to Section 13(b)(2)(A) of the Exchange Act [§78m(b)(2)(A)].

V.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Gilburne, pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)] and Section 21(d)(2) of the Exchange Act [15 U.S.C. §78u(d)(2)], be and hereby is permanently prohibited from acting as an officer or director of any issuer that has a class of securities registered with the Commission pursuant to Section 12 of the Exchange Act [15 U.S.C. §78l] or that is required to file reports with the Commission pursuant to Section 15 (d) of the Exchange Act [15 U.S.C. §78o(d)].

VI.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Gilburne shall pay a civil penalty in the amount of \$75,000 pursuant to Section 20(d) of the

Securities Act (15 U.S.C. §77t(d)) and Section 21(d) of the Exchange Act [15 U.S.C. §77u(d)]. Gilburne shall make this payment within ten (10) business days after entry of this Final 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 Gilburne as the defendant 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.

VII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Gilburne shall comply with all of the undertakings and agreements set forth therein.

VIII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction over this matter for all purposes, including implementing and enforcing the terms of this Final Judgment, and may order other and further relief that this Court deems appropriate under the circumstances.

IX.

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 Final Judgment forthwith and without further notice.

Dated: May 13, 2003

A handwritten signature in cursive script, appearing to read "William A. ...", is written over a horizontal line. Below the line, the text "UNITED STATES DISTRICT JUDGE" is printed in a serif font.

UNITED STATES DISTRICT JUDGE