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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
10 SEATTLE DIVISION  
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12 SECURITIES AND EXCHANGE COMMISSION, :

13 Plaintiff, :

14 v. :

15 DAVID ANDREW HILTON and  
16 STEPHEN SCOTT LOWBER,

17 Defendants. :  
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Case No. C 03-2511-Z

19 [PROPOSED] FINAL JUDGMENT OF PERMANENT INJUNCTION AND OTHER  
20 EQUITABLE AND STATUTORY RELIEF AGAINST DEFENDANT DAVID  
ANDREW HILTON

21 Plaintiff United States Securities and Exchange Commission ("Commission") has  
22 filed its Complaint for Permanent Injunction and Other Equitable and Statutory Relief  
23 ("Complaint") in this action. Defendant David Andrew Hilton ("Hilton"), who was  
24 represented by counsel, has submitted the Consent of David Andrew Hilton to Entry of Final  
25 Judgment of Permanent Injunction and Other Equitable And Statutory Relief ("Consent"),  
26 which was filed simultaneously with this [Proposed] Final Judgment of Permanent  
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Injunction and Other Equitable And Statutory Relief Against Defendant David Andrew Hilton ("Final Judgment") and incorporated herein by reference. In the Consent, Hilton waived service of the Summons and the Complaint, admitted the jurisdiction of this Court over him and over the subject matter of this action, admitted that he was fully advised and informed of the right to a judicial determination of this matter, waived findings of fact and conclusions of law as provided by Rule 52 of the Federal Rules of Civil Procedure, consented to the entry of this Final Judgment, without admitting or denying any of the allegations in the Complaint except as set forth in the Consent, and waived notice of hearing upon the entry of this Final Judgment. The Court, being fully advised, orders as follows:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Hilton, his agents, servants, employees, attorneys, and all those persons in active concert and participation with them who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, are permanently enjoined and restrained from, directly or indirectly, violating Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder 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 transaction, act, practice, or course of business which operates or would operate as a fraud or deceit on any person,
- in connection with the purchase or sale of any securities of any issuer by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange.

## II.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Hilton, his agents, servants, employees, attorneys, and all those persons in active concert and participation with them who receive actual notice of this Final Judgment, by personal service or otherwise, and each of them, are permanently enjoined and restrained from aiding and abetting any violation of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20 and 13a-1 promulgated thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1] by knowingly providing substantial assistance to an issuer which has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or Section 15(d) of the Exchange Act [15 U.S.C. § 78o] in failing to file with the Commission such accurate and complete information, reports, and documents as are required to be filed with the Commission pursuant to Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and the Commission's Rules thereunder, including but not limited to, annual reports on Form 10-K [17 C.F.R. § 249.310] as prescribed by Commission Rule 13a-1 [17 C.F.R. § 240.13a-1] and quarterly reports on Form 10-Q [17 C.F.R. § 249.308a] as prescribed by Commission Rule 13a-13 [17 C.F.R. § 240.13a-13], such information and documents to contain, in addition to such information as is expressly required to be included in a statement or report to the Commission, such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading, as prescribed by Commission Rule 12b-20 [17 C.F.R. § 240.12b-20].

## III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Hilton shall pay a civil penalty in the amount of \$25,000 pursuant to Section 21(d)(3) of the Exchange Act. Payment of the penalty and postjudgment interest shall be made in four separate installments of \$6,356.25 by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. The first installment shall be paid

1 within ninety (90) days of the entry of the Final Judgment, with installments paid every  
2 following ninety (90) days thereafter until the entire penalty of \$25,000 and postjudgment  
3 interest of \$425 has been paid. Hilton shall pay postjudgment interest, as calculated pursuant  
4 to 28 U.S.C. § 1961, on any amount of the penalty that remains outstanding after the  
5 scheduled time of payment set forth above. The payments shall be delivered or mailed to the  
6 Office of Financial Management, Securities and Exchange Commission, Operations Center,  
7 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be  
8 accompanied by a letter identifying Hilton as a defendant in this action; setting forth the title  
9 and civil action number of this action and the name of this Court; and specifying that  
10 payment is made pursuant to this Final Judgment. Copies of each of the cover letters shall be  
11 simultaneously transmitted to the attention of the District Administrator at the Commission's  
12 San Francisco District Office, 44 Montgomery Street, Suite 1100, San Francisco, CA 94104.

13 IV.

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

18 V.

19 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall  
20 retain jurisdiction of this action for the purposes of enforcing the terms of this Final  
21 Judgment.

22 VI.

23 There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of  
24 Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without  
25 further notice.

1 PRESENTED BY:

2 /s/ \_\_\_\_\_  
3 Marc J. Fagel  
4 Helane L. Morrison  
5 Robert L. Mitchell  
6 Marc J. Fagel  
7 Kashya K. Shei

8 Attorneys for Plaintiff  
9 SECURITIES AND EXCHANGE COMMISSION  
10 44 Montgomery Street, Suite 1100  
11 San Francisco, California 94104  
12 Telephone: (415) 705-2500  
13 Fax: (415) 705-2501  
14 e-mail: fagelm@sec.gov

15 APPROVED AS TO FORM:

16 /s/ \_\_\_\_\_  
17 Philip Bledsoe  
18 Philip Bledsoe, Esq.  
19 Shugart, Thomson & Kilroy  
20 Counsel for Defendant David Andrew Hilton

21 Dated this 29<sup>th</sup> day of Aug., 2003

22   
23 United States District Judge