



timely served a Summons and Complaint upon the Defendant. Following the Defendant's failure to answer or otherwise respond to the Complaint within the time provided by the Federal Rules of Civil Procedure, the Commission filed and served upon the Defendant a Request, Declaration of Michael K. Lowman, dated August 19, 2004, Memorandum of Law in Support of Entry of a Final Judgment by Default Against Defendant Thomas J. Donovan, and a copy of the proposed Final Judgment by Default Against Defendant Thomas J. Donovan. This Court having found that, pursuant to Federal Rule of Civil Procedure 55(b)(2), the Defendant has failed properly to defend the Commission's action, and having further found that this Court has jurisdiction over the subject matter of this action and over the Defendant, and venue properly lies in this district, and the jurisdiction to grant the relief requested by the Commission, and upon consideration of the Complaint filed by plaintiff Securities and Exchange Commission, its Motion for Default Judgment, and the entire record herein, this Court orders, adjudges and decrees as follows with respect to:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant Donovan, and his agents, servants, employees, attorneys, and all persons in active concert or participation with him 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 Securities Exchange Act of 1934 (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 the 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.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Thomas J. Donovan, and his agents, servants, employees, attorneys, and all persons in active concert or participation with him who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating 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 a material fact or any omission of 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.

III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Donovan pay a civil penalty \$ 90,000. The payment of the civil penalty shall be made to the Comptroller of the Securities and Exchange Commission, who shall forward said amount to the United States Treasury. Defendant Donovan shall make such payment by certified check or money order to the order of "Comptroller, United States Securities and Exchange Commission" within 10 days after entry of this Final Judgment, accompanied by a letter explaining that the deposit is made in satisfaction of this judgment and identifying Mr. Donovan as the defendant in this action, the civil action number assigned to the Complaint, the District Court in which the Complaint and this Final Judgment were filed, and the Commission's internal case number (HO-9431). Payment shall be sent to the following address:

Office of the Comptroller  
United States Securities and Exchange Commission  
450 Fifth Street, NW  
Mail Stop 3-3  
Washington, DC 20549-0303

At the same time payment is remitted, defendant Donovan shall send a photocopy of his check or money order and correspondence to the Secretary of the Commission and to Mr. Lowman at the address identified in paragraph III above.

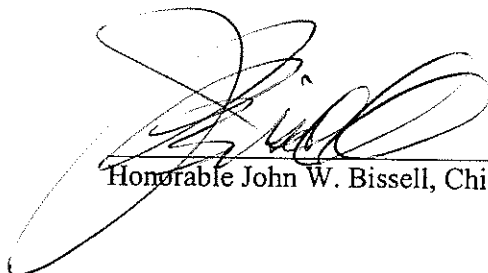
IV.

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

V.

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: Sept. 27, 2004



Honorable John W. Bissell, Chief Judge

**COPY TO:**

**THOMAS J. DONOVAN**  
340 80<sup>th</sup> Street  
Brooklyn, N.Y. 11209