

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF PENNSYLVANIA

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

BRYAN J. HAWES,  
FINANCIAL MANAGEMENT ADVISORY  
SERVICES, INC., and  
FINANCIAL MANAGEMENT SERVICES, INC.

Defendants,

ALPHA & OMEGA TRANSPORTATION, INC.,

Relief Defendant.

Civ. 3-1786 (DWA)

**AMENDED FINAL JUDGMENT AS TO  
DEFENDANT BRYAN JAMES HAWES**

The Securities and Exchange Commission having filed a Complaint and Defendant Bryan James Hawes ("Defendant") having entered a general appearance, consented to the Court's jurisdiction over Defendant and the subject matter of this action, consented to entry of this Amended Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction), waived findings of fact and conclusions of law, and waived any right to appeal from this Amended Final Judgment:

**I.**

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Amended 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 and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Amended Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 [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 HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED** that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Amended Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Sections 206(1) or 206(2) of the Investment Advisers Act of 1940 [15 U.S.C. §§ 80b-6(1) and (2)] by, directly or indirectly:

- (a) employing any device, scheme, or artifice to defraud any investment advisory client or prospective client; or
- (b) engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any investment advisory client or prospective client.

### IV.

**IT IS ORDERED, ADJUDGED AND DECREED** that all funds and assets frozen pursuant to the preliminary injunction entered by this Court on November 24, 2003, shall be transferred to the Clerk of the Court for this District to be applied toward partial satisfaction of the criminal order of restitution entered against Defendant in the criminal proceeding, *United States v. Bryan J. Hawes*, Case Number 04-82, United States District Court for the Western District of Pennsylvania (Chief Judge Ambrose), wherein Defendant was ordered to pay \$2,601,961.60. However, with respect to the funds frozen in the following accounts held with

Fidelity Investments, the funds are to be transferred to the Clerk of this Court via the Trustee in Bankruptcy appointed in the bankruptcy proceeding involving Defendant: *In re Bryan James Hawes*, Case Number 04-25986BM, United States Bankruptcy Court for the Western District of Pennsylvania (Judge Markovitz). Specifically, all funds in the Fidelity accounts in Defendant's name, #179759830 and #179759805, and in the name of Financial Management Services, Inc., #2750030298, shall be transferred, within thirty (30) days of the entry of this Judgment, to the Trustee in Bankruptcy in the above bankruptcy action: Stanley G. Makaroff, Esq., Blumling & Gusky, LLP, 1200 Koppers Building Pittsburgh, PA 15219. Thereafter, Trustee Makaroff shall transfer the funds, less any applicable statutory fees up to a maximum of three (3) percent of the funds transferred, to the Clerk of this Court within thirty (30) days following receipt of the funds. All other funds frozen by the November 24, 2003 order in this case shall be paid into the registry of this Court within thirty (30) days following the entry of this Amended Final Judgment.

V.

**IT IS ORDERED, ADJUDGED AND DECREED** that the Commission's claims against Financial Management Advisory Services, Inc., Financial Management Services, Inc., and Alpha & Omega Transportation, Inc. are hereby dismissed, without prejudice.

VI.

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the Consent of Defendant signed on September 13, 2004 is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

VII.

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 Amended Final Judgment.

Dated: 3-9, 2005

*Monetta F. Ambrose*

UNITED STATES DISTRICT JUDGE