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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

U. S. SECURITIES AND EXCHANGE COMMISSION,)	Case No. 04 CV 2002 (JAH) (RBB)
Plaintiff,)	FINAL JUDGMENT AS TO DOUGLAS S. POWANDA
v.)	
DOUGLAS S. POWANDA)	
Defendant.)	
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The Securities and Exchange Commission having filed a Complaint and Defendant Douglas S. Powanda (“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 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 Final Judgment:

I.

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2 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and
3 Defendant's agents, servants, employees, attorneys, and all persons in active concert or
4 participation with them who receive actual notice of this Final Judgment by personal service or
5 otherwise are is permanently restrained and enjoined from violating Section 17(a) of the Securities
6 Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)] in the offer or sale of any security by the
7 use of any means or instruments of transportation or communication in interstate commerce or by
8 use of the mails, directly or indirectly:
9

10 (a) to employ any device, scheme, or artifice to defraud;

11 (b) to obtain money or property by means of any untrue statement of a material fact
12 or any omission of a material fact necessary in order to make the statements
13 made, in light of the circumstances under which they were made, not misleading;

14 or

15 (c) to engage in any transaction, practice, or course of business which operates or
16 would operate as a fraud or deceit upon the purchaser.
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18 II.

19 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant
20 and Defendant's agents, servants, employees, attorneys, and all persons in active concert or
21 participation with them who receive actual notice of this Final Judgment by personal service or
22 otherwise are is permanently restrained and enjoined from violating, directly or indirectly, Section
23 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule
24 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of
25 interstate commerce, or of the mails, or of any facility of any national securities exchange, in
26 connection with the purchase or sale of any security:
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28 (a) to employ any device, scheme, or artifice to defraud;

1 (b) to make any untrue statement of a material fact or to omit to state a material fact
2 necessary in order to make the statements made, in the light of the circumstances
3 under which they were made, not misleading; or

4 (c) to engage in any act, practice, or course of business which operates or would
5 operate as a fraud or deceit upon any person.
6

7 III.

8 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant
9 and Defendant's agents, servants, employees, attorneys, and all persons in active concert or
10 participation with him who receive actual notice of this Final Judgment by personal service or
11 otherwise, are is permanently restrained and enjoined from knowingly circumventing or
12 knowingly failing to implement a system of internal accounting controls or knowingly falsifying,
13 or causing to be falsified, any book, record, or account described in Section 13(b)(2) of the
14 Exchange Act [15 U.S.C. § 78m(b)(2)], in violation of Section 13(b)(5) of the Exchange Act [15
15 U.S.C. § 78m(b)(5)] and Exchange Act Rule 13b2-1 [17 C.F.R. §§ 240.13b2-1].
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17 IV.

18 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant
19 and Defendant's agents, servants, employees, attorneys, and all persons in active concert or
20 participation with him who receive actual notice of this Final Judgment by personal service or
21 otherwise, are is permanently enjoined from aiding and abetting any violation of Sections 13(a),
22 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and
23 78m(b)(2)(B)], and Exchange Act Rules 12b-20, 13a-1, and 13a-13 [17 C.F.R. §§ 240.12b-20,
24 240.13a-1, and 240.13a-13], by knowingly providing substantial assistance to an issuer that has a
25 class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or any
26 issuer which is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. §
27 780(d)], and that:
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- 1 (A) fails to make and keep books, records, and accounts which, in reasonable detail,
2 accurately and fairly reflect the transactions and dispositions of the assets of the
3 issuer; or
- 4 (B) fails to devise and maintain a system of internal accounting controls sufficient to
5 provide reasonable assurances that: (i) transactions are executed in accordance
6 with management’s general or specific authorization; (ii) transactions are recorded
7 as necessary (I) to permit preparation of financial statements in conformity with
8 generally accepted accounting principles (“GAAP”) or any other criteria applicable
9 to such statements and (II) to maintain accountability for assets; (iii) access to
10 assets is permitted only in accordance with management’s general or specific
11 authorization; and (iv) the recorded accountability for assets is compared with the
12 existing assets at reasonable intervals and appropriate action is taken with respect
13 to any differences;
- 14 (C) files or causes to be filed with the Commission any report required to be filed with
15 the Commission pursuant to Section 13(a) of the Exchange Act [15 U.S.C.
16 § 78m(a)] and the Exchange Act’s rules and regulations that includes financial
17 statements that are not presented in conformity with GAAP, or is otherwise
18 materially inaccurate; or
- 19 (D) fails to include, in statements or reports, further material information as may be
20 necessary to make the required statements, in the light of the circumstances under
21 which they are made, not misleading.

22 V.

23 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to
24 Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] and Section 20(e) of the Securities
25 Act [15 U.S.C. § 77t(e)], Defendant is prohibited from acting as an officer or director of any issuer

1 that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C.
2 § 781] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C.
3 § 78o(d)].

4 VI.

5 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is
6 liable for disgorgement of \$2,264,037, representing profits gained as a result of the conduct
7 alleged in the Complaint, together with prejudgment interest thereon in the amount of
8 \$1,495,729, for a total of \$3,759,766. The Commission may enforce the Court's judgment for
9 disgorgement and prejudgment interest by moving for civil contempt (and/or through other
10 collection procedures authorized by law) at any time after ten days following entry of this Final
11 Judgment. In response to any such civil contempt motion by the Commission, the defendant may
12 assert any legally permissible defense. Payments under this paragraph shall be made to the Clerk
13 of this Court, together with a cover letter identifying Douglas S. Powanda as a defendant in this
14 action; setting forth the title and civil action number of this action and the name of this Court; and
15 specifying that payment is made pursuant to this Final Judgment. Defendant shall simultaneously
16 transmit photocopies of each such payment and letter to the Commission's counsel in this action.
17 Defendant relinquishes all legal and equitable right, title, and interest in such payments, and no
18 part of the funds shall be returned to Defendant. The Clerk shall deposit the funds into an interest
19 bearing account with the interest bearing account that is utilized by the Court. These funds,
20 together with any interest and income earned thereon (collectively, the "Fund"), shall be held in
21 the interest bearing account until further order of the Court. In accordance with 28 U.S.C. § 1914
22 and the guidelines set by the Director of the Administrative Office of the United States Courts, the
23 Clerk is directed, without further order of this Court, to deduct from the income earned on the
24 money in the Fund a fee equal to ten percent of the income earned on the Fund. Such fee shall not
25 exceed that authorized by the Judicial Conference of the United States. The Commission may
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1 propose a plan to distribute the Fund subject to the Court's approval. Defendant shall pay post-
2 judgment interest on any delinquent amounts pursuant to 28 USC § 1961.

3 VII.

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

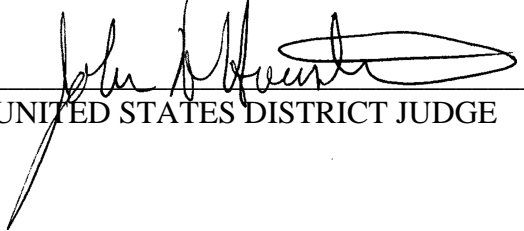
7 VIII.

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

10 IX.

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

13 Dated: December 23, 2009

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18 UNITED STATES DISTRICT JUDGE
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