

1 Russell D. Duncan (Lead Counsel) (DC Bar #366888)  
James A. Howell (CA Bar #92721)  
2 Lawrence C. Renbaum (DC Bar #450015)  
Paul G. Lane (DC Bar #428821)  
3 Securities and Exchange Commission  
450 Fifth Street, NW  
4 Washington, D.C. 20549-0911  
Telephone: (202) 942-7303 (Lead Counsel)  
5 Facsimile: (202) 942-9581

6 Attorneys for Plaintiff  
Securities and Exchange Commission

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9 **UNITED STATES DISTRICT COURT**  
10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
11 **SAN FRANCISCO DIVISION**

12 SECURITIES AND EXCHANGE )  
13 COMMISSION, ) **Case No. C 04-05030 FMS**  
14 )  
15 Plaintiff, ) **FINAL JUDGEMENT AGAINST**  
16 v. ) **EVAN S. COLLINS**  
17 )  
18 EVAN S. COLLINS, )  
Defendant. )

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20 The Securities and Exchange Commission having filed a Complaint and Evan S. Collins  
21 (“Defendant”) having entered a general appearance; admitted jurisdiction of this Court over him  
22 and over the subject matter of this action; consented to entry of this Final Judgment without  
23 admitting or denying the allegations of the Complaint (except as to jurisdiction); waived the  
24 filing of an answer and the entry of findings of fact and conclusions of law; and waived any right  
25 to appeal from this Final Judgment;

26 I.

27 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and  
28 Defendant's agents, servants, employees, attorneys, and all persons in active concert or

1 participation with them who receive actual notice of this Final Judgment by personal service or  
2 otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section  
3 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and  
4 Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or  
5 instrumentality of interstate commerce, or of the mails, or of any facility of any national  
6 securities exchange, in connection with the purchase or sale of any security:

- 7 (a) to employ any device, scheme, or artifice to defraud;
- 8 (b) to make any untrue statement of a material fact or to omit to state a material fact  
9 necessary in order to make the statements made, in the light of the circumstances under  
10 which they were made, not misleading; or
- 11 (c) to engage in any act, practice, or course of business which operates or would  
12 operate as a fraud or deceit upon any person.

13 II.

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

- 21 (a) to employ any device, scheme, or artifice to defraud;
- 22 (b) to obtain money or property by means of any untrue statement of a material fact  
23 or any omission of a material fact necessary in order to make the statements made, in  
24 light of the circumstances under which they were made, not misleading; or
- 25 (c) to engage in any transaction, practice, or course of business which operates or  
26 would operate as a fraud or deceit upon the purchaser.

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III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$253,125, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$63,336.47, for a total of \$316,461.47. Defendant shall satisfy this obligation by paying \$250,000 in criminal restitution in the form of disgorgement of profits in the parallel criminal action captioned United States v. Evan S. Collins, filed in this district, and an additional \$66,461.47 in disgorgement in this matter. Defendant shall satisfy that portion of his disgorgement obligation that is payable in this action by paying \$66,461.47 within ten business days to the Clerk of this Court, together with a cover letter identifying Evan S. Collins as a 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. Upon payment of \$66,461.47 in disgorgement in this civil action and \$250,000 in restitution in the criminal action, Defendant shall simultaneously transmit photocopies of each such payment and letter to the Commission's counsel in this action. By making these payments, Defendant relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Defendant. The Clerk shall deposit the funds into an interest bearing account with the Court Registry Investment System ("CRIS"). These funds, together with any interest and income earned thereon (collectively, the "Fund"), shall be held by the CRIS until further order of the Court. In accordance with 28 U.S.C. § 1914 and the guidelines set by the Director of the Administrative Office of the United States Courts, the Clerk is directed, without further order of this Court, to deduct from the income earned on the money in the Fund a fee equal to ten percent of the income earned on the Fund. Such fee shall not exceed that authorized by the Judicial Conference of the United States. The Commission may propose a plan to distribute the Fund subject to the Court's approval. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

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IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall pay a civil penalty in the amount of \$253,125 pursuant to Securities Act Section 20(d) and Exchange Act Sections 21(d)(3) and 21A. Defendant 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 Evan S. Collins as a 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. Defendant shall simultaneously transmit photocopies of each payment and letter to the Commission's counsel in this action. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Sections 20(e) of the Securities Act [15 U.S.C. § 77t(e)] and 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], Defendant is prohibited, for five (5) years following the date of entry of this Final Judgment, from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

VI.

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 Defendant shall comply with all of the undertakings and agreements set forth therein.

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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 Final Judgment.

Dated: December 3, 2004



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UNITED STATES DISTRICT COURT JUDGE