

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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DOC #:
DATE FILED: 2/13/06

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

STEPHEN J. TREADWAY
AND KENNETH W. CORBA,

Defendants.

Civil Action No.
04 Civ. 3464 (VM)

**CONSENT OF DEFENDANT KENNETH W. CORBA
TO ENTRY OF FINAL JUDGMENT OF PERMANENT
INJUNCTION AND OTHER RELIEF**

Jose F. Sanchez (JS 3340)
Sam S. Puathasnanon (SP 4916)
Adam D. Schneir (AS 9745)

Attorneys for Plaintiff
U.S. Securities and Exchange Commission
Pacific Regional Office
Randall R. Lee, Regional Director
Brianc Nelson Mitchell, Associate Regional Director
5670 Wilshire Boulevard, Suite 1100
Los Angeles, California 90036
(323) 965-3998 (telephone)
(323) 965-3908 (facsimile)

CONSENT OF DEFENDANT KENNETH W. CORBA

1. Defendant Kenneth W. Corba (“Corba”) acknowledges having been served with the Complaint in this action, enters a general appearance, and admits the Court’s jurisdiction over him and over the subject matter of this action.

2. Without admitting or denying the allegations of the Complaint (except as to personal and subject matter jurisdiction, which Corba admits), Corba hereby consents to the entry of the Final Judgment Of Permanent Injunction And Other Relief Against Kenneth W. Corba (the “Final Judgment”) in the form attached hereto and incorporated by reference herein, which, among other things:

- (a) permanently restrains and enjoins Defendant from violations of Section 17(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. § 77q(a), Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78j(b) and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5, Section 206 (1) and 206(2) of the Investment Advisers Act of 1940 (“Investment Advisers Act”), 15 U.S.C. §§ 80b-6(1) & 80b-6(2), and Section 34(b) of the Investment Company Act of 1940 (“Investment Company Act”), 15 U.S.C. § 80a-33(b);
- (b) orders Defendant to pay a civil money penalty of \$200,000 pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), Section 209(e) of the Advisers Act, 15 U.S.C. § 80b-9(e)(1), and Section 42(e) of the Investment Company Act, 15 U.S.C. § 80a-41(e).

3. Defendant agrees that he shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil

penalty amounts that Defendant pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. Defendant further agrees that he shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts that Defendant pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

4. Corba waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

5. Corba waives the right, if any, to a jury trial and to appeal from the entry of the Final Judgment.

6. Corba enters into this Consent voluntarily and represents that no threats, offers, promises or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce Corba to enter into this Consent.

7. Corba agrees that this Consent shall be incorporated into the Final Judgment with the same force and effect as if fully set forth therein.

8. Corba will not oppose the enforcement of the Final Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

9. Corba waives service of the Final Judgment and agrees that the entry of the Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to Corba of its terms and conditions. Corba further agrees to provide counsel for the Commission, within thirty days after the Final Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Corba has received and read a copy of the Final Judgment.

10. Consistent with 17 C.F.R. 202.5(f), this Consent resolves only the

claims asserted against Corba in this civil proceeding. Corba acknowledges that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Corba waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Corba further acknowledges that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this action, Corba understands that he shall not be permitted to contest the factual allegations of the Complaint in this action.

11. Corba understands and agrees to comply with the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegation in the complaint or order for proceedings." 17 C.F.R. § 202.5. In compliance with this policy, Corba agrees: (i) not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any allegation in the Complaint or creating the impression that the Complaint is without factual basis; and (ii) that upon the filing of this Consent, Corba hereby withdraws any papers filed in this action to the extent that they deny any allegation in the Complaint. If Corba breaches this agreement, the Commission may petition the Court to vacate the Final Judgment

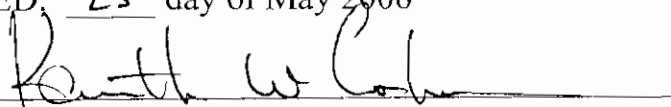
and restore this action to its active docket. Nothing in this paragraph affects Corba's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.

12. Corba hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorney's fees or other fees, expenses, or costs expended by Corba to defend against this action. For these purposes, Corba agrees that he is not the prevailing party in this action since the parties have reached a good faith settlement.

13. Corba agrees that the Commission may present the Final Judgment to the Court for signature and entry without further notice.

14. Corba agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Judgment.

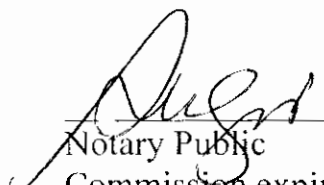
DATED: 23 day of May 2006



Kenneth W. Corba

On May 23, 2006, Kenneth W Corba, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.

ANNE M. LEGIO
NOTARY PUBLIC, STATE OF NEW YORK
No. 01LE6127350
QUALIFIED IN WESTCHESTER COUNTY
MY COMMISSION EXPIRES MAY 23, 2009



Notary Public
Commission expires:

Approved as to form:

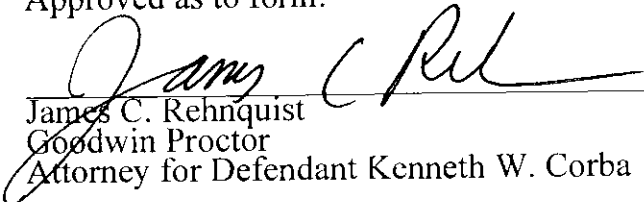

James C. Rehnquist
Goodwin Proctor
Attorney for Defendant Kenneth W. Corba

EXHIBIT 1

FINAL JUDGMENT AS TO DEFENDANT KENNETH W. CORBA

The Securities and Exchange Commission (“Commission”), having filed and served upon Kenneth W. Corba (“Corba”) a Summons and Complaint (“Complaint”) and Corba having entered a general appearance; consented to the Court’s jurisdiction over him and the subject matter of this action; consented to the entry of this Final Judgment Of Permanent Injunction And Other Relief Against Kenneth W. Corba (“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.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Corba and his agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, are permanently restrained and enjoined from, directly or indirectly, in the offer or sale of the securities of any issuer, by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails:

- a. employing any device, scheme or artifice to defraud;
- b. obtaining money or property by means of any untrue statement of a material fact or any omission 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. engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser;

in violation of Section 17(a) of the Securities Act of 1933, 15 U.S.C. § 77q(a).

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Corba and his agents, servants, employees, and attorneys, and all persons in active concert or participation with any of them, who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, are permanently restrained and enjoined from, directly or indirectly, in connection with the purchase or sale of any security, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange:

- a. employing any device, scheme, or artifice to defraud;
- b. 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
- c. engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;

in violation of Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78j(b) and Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Corba and his agents, servants, employees, and attorneys, and all persons in active concert or participation with any of them, who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, are permanently restrained and enjoined from, directly or indirectly, by use of the mails or means or instrumentalities of interstate commerce:

- a. with scienter, employing devices, schemes, or artifices to

defraud clients or prospective clients;

- b. engaging in transactions, practices, or courses of business which operated as a fraud or deceit upon clients or prospective clients;

in violation of Sections 206(1) and 206(2) of the Advisers Act, 15 U.S.C. §§ 80b-6(1) & 80b-6(2).

IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Corba and his agents, servants, employees, and attorneys, and all persons in active concert or participation with any of them, who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, are permanently restrained and enjoined from, directly or indirectly:

- a. making untrue statements of a material fact in a registration statement, application, report, account, record, or other document filed or transmitted pursuant to the Investment Company Act, the keeping of which is required pursuant to Section 31(a), 15 U.S.C. 80a-30(a);
- b. omitting to state in such documents facts necessary in order to prevent the statements made therein, in the light of the circumstances under which they were made, from being materially misleading;

in violation of Section 34(b) of the Investment Company Act, 15 U.S.C. § 80a-33(b).

V.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall pay a civil penalty in the amount of \$200,000 pursuant to pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d),

Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), Section 209(e) of the Advisers Act, 15 U.S.C. § 80b-9(e)(1), and Section 42(e) of the Investment Company Act, 15 U.S.C. § 80a-41(e). Defendant shall make this payment within ten (10) 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 Corba 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. By making this payment, Defendant relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Defendant. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Corba's Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Corba shall comply with all the undertakings and agreements set forth therein.

VII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that during the pendency of this action against any defendant, Corba shall remain subject to the discovery provisions of the Federal Rules of Civil Procedure which apply to parties, and, in addition, that Corba shall appear, without service of a subpoena, for his deposition or to testify as a witness at any trial of this action or at any other

related proceeding. Failure to comply with the foregoing will subject Corba to the remedies and sanctions set forth in Rule 37 of the Federal Rules of Civil Procedure and all other available remedies.

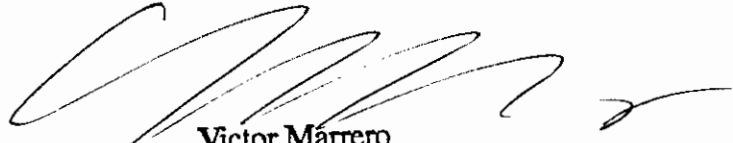
VIII.

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.

IX.

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

DATED: 13 June 2006



Victor Marrero

UNITED STATES DISTRICT JUDGE

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

Date:

In Re:

-v-

Case #: ()

Dear Litigant,

Enclosed is a copy of the judgment entered in your case.

Your attention is directed to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, which requires that if you wish to appeal the judgment in your case, you must file a notice of appeal within 30 days of the date of entry of the judgment (60 days if the United States or an officer or agency of the United States is a party).

If you wish to appeal the judgment but for any reason you are unable to file your notice of appeal within the required time, you may make a motion for an extension of time in accordance with the provision of Fed. R. App. P. 4(a)(5). That rule requires you to show "excusable neglect" or "good cause" for your failure to file your notice of appeal within the time allowed. Any such motion must first be served upon the other parties and then filed with the Pro Se Office no later than 60 days from the date of entry of the judgment (90 days if the United States or an officer or agency of the United States is a party).

The enclosed Forms 1, 2 and 3 cover some common situations, and you may choose to use one of them if appropriate to your circumstances.

The Filing fee for a notice of appeal is \$5.00 and the appellate docketing fee is \$450.00 payable to the "Clerk of the Court, USDC, SDNY" by certified check, money order or cash. **No personal checks are accepted.**

J. Michael McMahon, Clerk of Court

by: _____

, Deputy Clerk

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

-----X
|
-V- |
|
-----X

NOTICE OF APPEAL

civ. ()

Notice is hereby given that _____
(party)
hereby appeals to the United States Court of Appeals for the Second Circuit from the Judgment [describe it]

entered in this action on the _____ day of _____, _____.
(day) (month) (year)

(Signature)

(Address)

(City, State and Zip Code)

Date: _____ () _____ - _____
(Telephone Number)

Note: You may use this form to take an appeal provided that it is received by the office of the Clerk of the District Court within 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

FORM 1

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

-----X
|
-V- |
|
-----X

**MOTION FOR EXTENSION OF TIME
TO FILE A NOTICE OF APPEAL**

civ. ()

Pursuant to Fed. R. App. P. 4(a)(5), _____ respectfully
(party)
requests leave to file the within notice of appeal out of time. _____
(party)
desires to appeal the judgment in this action entered on _____ but failed to file a
(day)
notice of appeal within the required number of days because:

[Explain here the "excusable neglect" or "good cause" which led to your failure to file a notice of appeal within the required number of days.]

(Signature)

(Address)

(City, State and Zip Code)

Date: _____ () _____ - _____
(Telephone Number)

Note: You may use this form, together with a copy of Form 1, if you are seeking to appeal a judgment and did not file a copy of Form 1 within the required time. If you follow this procedure, these forms must be received in the office of the Clerk of the District Court no later than 60 days of the date which the judgment was entered (90 days if the United States or an officer or agency of the United States is a party).

FORM 2

APPEAL FORMS

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

-----X
|
-V- |
|
-----X

NOTICE OF APPEAL
AND
MOTION FOR EXTENSION OF TIME

civ. ()

1. Notice is hereby given that _____ hereby appeals to
(party)
the United States Court of Appeals for the Second Circuit from the judgment entered on _____.
[Give a description of the judgment]

2. In the event that this form was not received in the Clerk's office within the required time
_____ respectfully requests the court to grant an extension of time in
(party)
accordance with Fed. R. App. P. 4(a)(5).

a. In support of this request, _____ states that
(party)
this Court's judgment was received on _____ and that this form was mailed to the
(date)
court on _____ .
(date)

(Signature)

(Address)

(City, State and Zip Code)

Date: _____ () _____ - _____
(Telephone Number)

Note: You may use this form if you are mailing your notice of appeal and are not sure the Clerk of the District Court will receive it within the 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

FORM 3

APPEAL FORMS

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

-----X
|
-V-
|
-----X

AFFIRMATION OF SERVICE

civ. ()

I, _____, declare under penalty of perjury that I have
served a copy of the attached _____

_____ upon _____

_____ whose address is: _____

Date: _____
New York, New York

(Signature)

(Address)

(City, State and Zip Code)

FORM 4

APPEAL FORMS