

STEIN, J

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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DOC #:  
DATE FILED: 8/7/09

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

EDWIN BUCHANAN LYON, IV,  
GRYPHON MASTER FUND, L.P.,  
GRYPHON PARTNERS, L.P.,  
GRYPHON PARTNERS (QP), L.P.,  
GRYPHON OFFSHORE FUND, LTD.,  
GRYPHON MANAGEMENT PARTNERS, L.P.,  
GRYPHON MANAGEMENT PARTNERS III, L.P.,  
and  
GRYPHON ADVISORS, L.L.C.,

Defendants.

06-CV-14338 (SHS)

**FINAL JUDGMENT AS TO EDWIN BUCHANAN LYON, IV, ET AL.**

The Securities and Exchange Commission having filed a Complaint and Defendants Edwin Buchanan Lyon, IV, Gryphon Master Fund, L.P., Gryphon Partners, L.P., Gryphon Partners (QP), L.P., Gryphon Offshore Fund, Ltd., Gryphon Management Partners, L.P., Gryphon Management Partners III, L.P., and Gryphon Advisors, L.L.C. ("Defendants") having entered a general appearance; consented to the Court's jurisdiction over Defendants 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.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants and Defendants' 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 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 Defendants and Defendants' 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 are permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)] in the offer or sale of any security by the

- (a) permanently restrains and enjoins Defendants from violation of Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)] and 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];
- (b) orders Defendant Lyon and Defendant Gryphon Advisors, L.L.C. to pay, jointly and severally, disgorgement in the amount of \$66,712, plus prejudgment interest thereon in the amount of \$33,850;
- (c) orders Defendants Gryphon Master Fund, L.P., Gryphon Partners, L.P., Gryphon Partners (QP), L.P., Gryphon Offshore Fund, Ltd., Gryphon Management Partners, L.P., and Gryphon Management Partners III, L.P. to pay, jointly and severally, disgorgement in the amount of \$243,576, plus prejudgment interest thereon in the amount of \$123,590; and
- (d) orders Defendant Lyon and Defendant Gryphon Advisors, L.L.C. to pay, jointly and severally, a civil penalty in the amount of \$310,288 under Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

3. Defendant Lyon and Defendant Gryphon Advisors, L.L.C. agree that they 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 they pay 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 Lyon and Defendant Gryphon Advisors, L.L.C. further agree that they 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 they pay 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. Defendants waive the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

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

6. Defendants enter into this Consent voluntarily and represent 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 Defendants to enter into this Consent.

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

8. Defendants 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. Defendants waive service of the Final Judgment and agree that entry of the Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendants of its terms and conditions. Defendants further agree 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 Defendants have 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 Defendants in this civil proceeding which have not previously been dismissed.

Defendants acknowledge 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. Defendants waive any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendants further acknowledge 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, Defendants understand that they shall not be permitted to contest the factual allegations of the complaint in this action.

11. Defendants understand and agree 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, Defendants agree: (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 as to insider trading or creating the impression that the complaint is without factual basis as to insider trading; and (ii) that upon the filing of this Consent, Defendants hereby withdraw any papers filed in this action to the extent that they deny any allegation in the complaint as to insider trading. If Defendants breach 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 Defendants': (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. Defendants hereby waive 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 Defendant to defend against this action. For these purposes, Defendants agree that Defendants are not the prevailing party in this action since the parties have reached a good faith settlement.

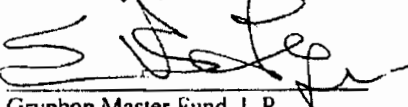
13. Defendants agree that the Commission may present the Final Judgment to the Court for signature and entry without further notice.

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

Dated: 7-15-09

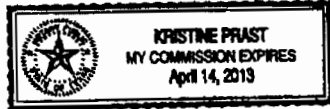
Dated: 7-15-09

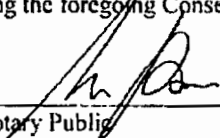
  
Edwin B. Lyon, IV

  
Gryphon Master Fund, L.P.  
Gryphon Partners, L.P.  
Gryphon Partners (QP), L.P.  
Gryphon Offshore Fund, Ltd.  
Gryphon Management Partners, L.P.  
Gryphon Management Partners III, L.P.  
Gryphon Advisors, L.L.C.

By: Edwin B. Lyon, IV  
As Authorized Agent

July  
On ~~June 15th~~ 2009, Edwin B. Lyon, IV, a person known to me, personally  
appeared before me and acknowledged executing the foregoing Consent.



  
\_\_\_\_\_  
Notary Public  
Commission expires:

Approved as to form:

  
\_\_\_\_\_  
11/6/11

Christopher J. Clark, Esq.  
Dewey & LeBoeuf, LLP  
1301 Avenue of the Americas  
New York, NY 10019  
Attorney for Defendants



**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 \$250.00 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**



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		
		<b>NOTICE OF APPEAL</b>
-V-		
		civ. ( )
-----X		

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: March 4, 2003

civ. ( )

Revised: March 4, 2003

-V-

**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

Revised: March 4, 2003