

\*E-filed 9/18/07\*

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9  
10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 [SAN JOSE DIVISION]

13 SECURITIES AND EXCHANGE COMMISSION,

14 Plaintiff,

15 v.

16 GARY L. FISCHER,

17 Defendant.  
18

Civil Action No. C07-03945 HRL

~~PROPOSED~~ FINAL JUDGMENT OF  
PERMANENT INJUNCTION AND OTHER  
RELIEF AGAINST DEFENDANT GARY L.  
FISCHER

19 Plaintiff United States Securities and Exchange Commission ("Commission") has filed a  
20 Complaint for Permanent Injunction and Other Relief ("Complaint") in this action and Defendant Gary  
21 L. Fischer ("Fischer") has entered a general appearance and has submitted the Consent of Gary L.  
22 Fischer to entry of Final Judgment of Permanent Injunction and Other Relief ("Consent"). In the  
23 Consent, Fischer waived service of the Summons and the Complaint, admitted the jurisdiction of this  
24 Court over him and over the subject matter of this action, admitted that he was fully advised and  
25 informed of the right to a judicial determination of this matter, waived findings of fact and conclusions  
26 of law as provided by Rule 52 of the Federal Rules of Civil Procedure, consented to the entry of this  
27 Final Judgment, without admitting or denying any of the allegations in the Complaint except as set forth  
28

1 in the Consent, and waived notice of hearing upon the entry of this Final Judgment. The Court, being  
2 fully advised, orders as follows:

3 I.

4 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Fischer and his agents,  
5 servants, employees, those with powers of attorney on Fischer's behalf, and all persons acting in  
6 concert or participation with any of them, who receive actual notice of this Final Judgment, by  
7 personal service or otherwise, and each of them, are permanently enjoined and restrained from,  
8 directly or indirectly, violating Section 17(a) of the Securities Act of 1933 ("Securities Act") [15  
9 U.S.C. § 77q(a)] by:

- 10 1. employing any device, scheme, or artifice to defraud;
- 11 2. obtaining money or property by means of untrue statements of material fact or by omitting  
12 to state a material fact necessary in order to make the statements made, in light of the  
13 circumstances under which they were made, not misleading; or
- 14 3. engaging in any transaction, practice, or course of business which operates or would  
15 operate as a fraud or deceit upon the purchaser

16 in the offer or sale of any securities by the use of any means or instrumentality of interstate  
17 commerce, or of the mails.

18 II.

19 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Fischer and his agents,  
20 servants, employees, attorneys-in-fact, and all persons in active concert or participation with any of  
21 them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each of  
22 them, are permanently enjoined and restrained from, directly or indirectly, violating Section 10(b) of  
23 the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 [17  
24 C.F.R. § 240.10b-5] thereunder by:

- 25 1. employing any device, scheme, or artifice to defraud;
- 26 2. making any untrue statement of a material fact or omitting to state a material fact  
27 necessary in order to make the statements made, in the light of the circumstances  
28 under which they were made, not misleading; or

1 3. engaging in any act, practice, or course of business which operates or would operate as  
2 a fraud or deceit upon any person,  
3 in connection with the purchase or sale of the securities of any issuer, by the use of any means or  
4 instrumentality of interstate commerce, or of the mails, or of any facility of any national securities  
5 exchange.

6 III.

7 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Fischer and his agents,  
8 servants, employees and attorneys-in-fact, and all persons in active concert or participation with any  
9 of them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each  
10 of them, are permanently enjoined and restrained from aiding and abetting any violation of Section  
11 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1, 13a-11 and 13a-13  
12 promulgated thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11 and 240.13a-13] by  
13 knowingly providing substantial assistance to an issuer which has a class of securities registered  
14 pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or Section 15(d) of the Exchange Act  
15 [15 U.S.C. § 78o] in failing to file with the Commission such accurate and complete information,  
16 reports, and documents as are required to be filed with the Commission pursuant to Section 13(a) of  
17 the Exchange Act [15 U.S.C. § 78m(a)] and the Commission's Rules thereunder, including but not  
18 limited to, quarterly reports on Form 10-Q [17 C.F.R. § 249.308a] as prescribed by Commission Rule  
19 13a-13 [17 C.F.R. § 240.13a-13], current reports on Form 8-K [17 C.F.R. § 249.308] as prescribed by  
20 Commission Rule 13a-11 [17 C.F.R. § 240.13a-11], and annual reports on Form 10-K [17 C.F.R. §  
21 249.308] as prescribed by Commission Rule 13a-1 [17 C.F.R. § 240.13a-1], such information and  
22 documents to contain, in addition to such information as is expressly required to be included in a  
23 statement or report to the Commission, such further material information, if any, as may be necessary  
24 to make the required statements, in the light of the circumstances under which they are made, not  
25 misleading, as prescribed by Commission Rule 12b-20 [17 C.F.R. § 240.12b-20].

26 IV.

27 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Fischer and his agents,  
28 servants, employees and attorneys-in-fact, and all persons in active concert or participation with any

1 of them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each  
2 of them, are permanently enjoined and restrained from aiding and abetting any violation of Section  
3 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)] by causing any issuer which has a class  
4 of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or Section 15(d)  
5 of the Exchange Act [15 U.S.C. § 78o] to fail to make or keep books, records or accounts, which, in  
6 reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the  
7 issuer.

8 V.

9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Fischer and his agents,  
10 servants, employees and attorneys-in-fact, and all persons in active concert or participation with any  
11 of them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each  
12 of them, are permanently enjoined and restrained from aiding and abetting any violation of Section  
13 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)] by causing any issuer which has a class  
14 of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or Section 15(d)  
15 of the Exchange Act [15 U.S.C. § 78o] to fail to devise and maintain a system of internal accounting  
16 controls sufficient to provide reasonable assurances that:

- 17 1. transactions are executed in accordance with management's general or specific  
18 authorization;
- 19 2. transactions are recorded as necessary (i) to permit preparation of financial statements  
20 in conformity with generally accepted accounting principles or any other criteria  
21 applicable to such statements, and (ii) to maintain accountability for assets;
- 22 3. access to assets is permitted only in accordance with management's general or specific  
23 authorization; and
- 24 4. the recorded accountability for assets is compared with the existing assets at  
25 reasonable intervals and appropriate action is taken with respect to any differences.

26 VI.

27 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Fischer and his agents,  
28 servants, employees, attorneys-in-fact, and all persons in active concert or participation with any of

1 them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each of  
2 them, are permanently enjoined and restrained from, directly or indirectly, violating Section 13(b)(5)  
3 of the Exchange Act [15 U.S.C. § 78m(b)(5)] by knowingly circumventing or failing to implement a  
4 system of internal accounting controls or knowingly falsifying any book, record, or account described  
5 in Section 13(b)(2) of the Exchange Act [15 U.S.C. § 78m(b)(2)].

6 VII.

7 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Fischer and his agents,  
8 servants, employees and attorneys-in-fact, and all persons acting in concert or participation with any  
9 of them, who receive actual notice of this Final Judgment by personal service or otherwise, and each  
10 of them, are permanently enjoined and restrained from, directly or indirectly, violating Rule 13b2-1  
11 under the Exchange Act [17 C.F.R. § 240.13b2-1] by falsifying or causing to be falsified any book,  
12 record or account subject to Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)].

13 VIII.

14 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Fischer and his agents,  
15 servants, employees, attorneys-in-fact, and all persons in active concert or participation with any of  
16 them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each of  
17 them, are permanently enjoined and restrained from violating Rule 13b2-2 of the Exchange Act [17  
18 C.F.R. §240.13b2-2] by making or causing to be made a materially false or misleading statement, or  
19 by omitting to state or causing another person to omit to state, any material fact necessary in order to  
20 make statements made, in light of the circumstances under which such statements were made, not  
21 misleading, to an accountant in connection with (A) any audit or examination of the financial  
22 statements of an issuer required to be made pursuant to the federal securities laws or (B) the  
23 preparation or filing of any document or report required to be filed with the Commission pursuant to  
24 the federal securities laws or otherwise.

25 IX.

26 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Fischer and his agents,  
27 servants, employees, attorneys-in-fact, and all persons in active concert or participation with any of  
28 them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each of

1 them, are permanently enjoined and restrained from, directly or indirectly, violating Section 13(a) of  
2 the Exchange Act [15 U.S.C. § 78m(a)] and Rule 13a-14 of the Exchange Act [17 C.F.R. § 240.13a-  
3 14] by falsely certifying annual and quarterly reports filed with the Commission under Section 13(a)  
4 of the Exchange Act.

5 X.

6 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Fischer and his agents,  
7 servants, employees, attorneys, and all persons in active concert or participation with them who  
8 receive actual notice of this Final Judgment by personal service or otherwise are permanently  
9 restrained and enjoined from aiding and abetting any violation of Section 14(a) of the Exchange Act  
10 [15 U.S.C. § 78n(a)] and Rules 14a-3 and 14a-9 promulgated thereunder [17 C.F.R. §§ 240.14a-3 and  
11 240.14a-9] by making or causing to be made solicitations by means of a proxy statement as required  
12 by Rule 14a-3 [17 C.F.R. § 240.14a-3], form of proxy, notice of meeting or other communication,  
13 written or oral, containing a statement which, at the time and in the light of the circumstances under  
14 which it was made, was false or misleading with respect to any material fact, or which omitted to  
15 state any material fact necessary in order to make the statements therein not false or misleading or  
16 necessary to correct any statement in any earlier communication with respect to the solicitation of a  
17 proxy for the same meeting or subject matter which has become false or misleading.

18 XI.

19 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Fischer and his agents,  
20 servants, employees, attorneys, and all persons in active concert or participation with them who  
21 receive actual notice of this Final Judgment by personal service or otherwise are permanently  
22 restrained and enjoined from violating Section 16(a) of the Exchange Act [15 U.S.C. § 78p(a)] and  
23 Rule 16a-3 promulgated thereunder [17 C.F.R. § 240.16a-3] by failing to timely file with the  
24 Commission the required Forms 3 [17 C.F.R. § 249.103], Initial Statement of Beneficial Ownership  
25 of Securities, Forms 4 [17 C.F.R. § 249.104], Statement of Changes in Beneficial Ownership of  
26 Securities, and Forms 5 [17 C.F.R. § 249.105], Annual Statement of Beneficial Ownership of  
27 Securities.

## XII.

1  
2 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Section  
3 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] and Section 20(e) of the Securities Act [15  
4 U.S.C. § 77t(e)], Fischer is prohibited, for a period of five years following the date of entry of this  
5 Final Judgment, from acting as an officer or director of any issuer that has a class of securities  
6 registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78I] or that is required to file  
7 reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

## XIII.

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9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Fischer is liable for  
10 disgorgement of \$355,372, representing profits gained as a result of the conduct alleged in the  
11 Complaint, together with prejudgment interest thereon in the amount of \$59,458.07. Defendant shall  
12 satisfy this obligation by paying \$414,830.07 pursuant to the terms of the payment schedule set forth  
13 in paragraph XIV below after entry of this Final Judgment by certified check, bank cashier's check, or  
14 United States postal money order payable to Integrated Silicon Solution, Inc. A copy of the cover  
15 letter and money order or check shall be sent to Marc J. Fagel, Associate Regional Director, San  
16 Francisco Regional Office, United States Securities and Exchange Commission, 44 Montgomery  
17 Street, Suite 2600, San Francisco, California 94104. Defendant shall pay post-judgment interest on  
18 any delinquent amounts pursuant to 28 USC § 1961.

## XIV.

19  
20 Defendant shall pay \$414,830.07 in four installments according to the following schedule: (1)  
21 \$105,000 within 10 days of entry of this Final Judgment plus post-judgment interest pursuant to 28  
22 U.S.C. § 1961; (2) \$115,000 by December 31, 2007 plus post-judgment interest pursuant to 28 U.S.C.  
23 § 1961; (3) \$96,500 by April 30, 2008 plus post-judgment interest pursuant to 28 U.S.C. § 1961; and  
24 (4) \$98,330.07 by July 31, 2008 plus post-judgment interest pursuant to 28 U.S.C. § 1961.

25 If Defendant fails to make any payment by the date agreed and/or in the amount agreed  
26 according to the schedule set forth above, all outstanding payments under this Final Judgment,  
27 including post-judgment interest, minus any payments made, shall become due and payable to the  
28 Securities and Exchange Commission immediately without further application to the Court. Fischer

1 shall satisfy this obligation by paying the outstanding payments within ten (10) business days after the  
2 payment in Paragraph XIII was due by certified check, bank cashier's check, or United States postal  
3 money order payable to the Securities and Exchange Commission. The payment shall be delivered or  
4 mailed to the Office of Financial Management, Securities and Exchange Commission, Operations  
5 Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be  
6 accompanied by a letter identifying Gary L. Fischer as a defendant in this action; setting forth the title  
7 and civil action number of this action and the name of this Court; and specifying that payment is  
8 made pursuant to this Final Judgment. Defendant shall simultaneously transmit photocopies of such  
9 payment and letter to the attention of Marc J. Fagel, Associate Regional Director, at the  
10 Commission's San Francisco Regional Office, 44 Montgomery Street, Suite 2600, San Francisco, CA  
11 94104. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC  
12 § 1961. The Commission shall remit the funds paid pursuant to this paragraph to the United States  
13 Treasury.

14 XV.

15 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall pay a  
16 civil penalty in the amount of \$125,000 pursuant to Section 20(d) of the Securities Act and Section  
17 21(a) of the Exchange Act. Defendant shall satisfy this obligation by paying \$125,000 pursuant to the  
18 terms of the payment schedule set forth in paragraph XVI below after entry of this Final Judgment by  
19 certified check, bank cashier's check, or United States postal money order payable to the Securities  
20 and Exchange Commission. The payments shall be delivered or mailed to the Office of Financial  
21 Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way,  
22 Mail Stop 0-3, Alexandria, Virginia 22312, and shall be accompanied by a letter identifying Gary L.  
23 Fischer as a defendant in this action; setting forth the title and civil action number of this action and  
24 the name of this Court; and specifying that payment is made pursuant to this Final Judgment. A copy  
25 of the cover letter and money order or check shall be sent to Marc J. Fagel, Associate Regional  
26 Director, San Francisco Regional Office, United States Securities and Exchange Commission, 44  
27 Montgomery Street, Suite 2600, San Francisco, California 94104. Defendant shall pay post-judgment  
28



1 interest on any delinquent amounts pursuant to 28 USC § 1961. The Commission shall remit the  
2 funds paid pursuant to this paragraph to the United States Treasury.

3 XVI.

4 Defendant shall pay \$125,000 in four installments according to the following schedule: (1)  
5 \$35,000, within 10 days of entry of this Final Judgment plus post-judgment interest pursuant to 28  
6 U.S.C. § 1961; (2) \$30,000 by December 31, 2007 plus post-judgment interest pursuant to 28 U.S.C.  
7 § 1961; (3) \$30,000 by April 30, 2008 plus post-judgment interest pursuant to 28 U.S.C. § 1961; and  
8 (4) \$30,000 by July 31, 2008 plus post-judgment interest pursuant to 28 U.S.C. § 1961.

9 If Defendant fails to make any payment by the date agreed and/or in the amount agreed  
10 according to the schedule set forth above, all outstanding payments under this Final Judgment,  
11 including post-judgment interest, minus any payments made, shall become due and payable  
12 immediately without further application to the Court.

13 XVII.

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

17 XVIII.

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

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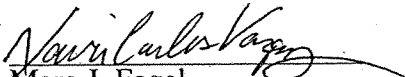
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XVI.


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

PRESENTED BY:

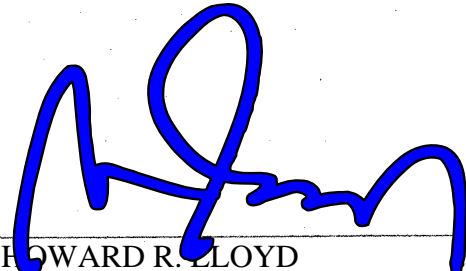
  
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SECURITIES AND EXCHANGE COMMISSION  
44 Montgomery Street, Suite 2600  
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APPROVED AS TO FORM:

  
Ross W. Nadel, Esq.  
William S. Freeman, Esq.  
Cooley Godward Kronish LLP  
101 California St., 5<sup>th</sup> Floor  
San Francisco, CA 94111-5800  
(415) 693-2193  
Attorney for Defendant Gary L. Fischer

Dated this 18th day of September, 2007

  
HOWARD R. LLOYD  
UNITED STATES MAGISTRATE JUDGE

1 THIS IS TO CERTIFY THAT A COPY OF THIS NOTICE WILL BE SENT TO:

2  
3 Michael S. Dicke dickem@sec.gov

4 Marc J. Fagel fagelm@sec.gov

5 William S. Freeman freemanws@cooley.com, galancr@cooley.com

6 Nicole M. Healy nhealy@wsgr.com

7 Christopher R. Howald chowald@wsgr.com

8 Sheila Ellen O'Callaghan ocallaghans@sec.gov

9 Xavier Carlos Vasquez vasquezc@sec.gov, knollc@sec.gov

10  
11  
12 **\*\* Counsel are responsible for transmitting this order to co-counsel who have not signed**  
13 **up for e-filing. \*\***

14 Dated: 9/18/07

15 /s/ KRO  
16 Chambers of Magistrate Judge Howard R. Lloyd

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