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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

JOSEPH MILANOWSKI, an Individual,

Defendant.

Case No. 2:08-cv-00511-KJD-PAL

**AMENDED FINAL
JUDGMENT OF PERMANENT
INJUNCTION, DISGORGEMENT, CIVIL
PENALTY AND OFFICER AND
DIRECTOR BAR AGAINST DEFENDANT
JOSEPH MILANOWSKI**

1 The Motion of Plaintiff, Securities and Exchange Commission (“Commission”), pursuant
2 to Rule 56, Fed. R. Civ. P., for Summary Judgment in favor of the Commission and against
3 Defendant Joseph Milanowski (“Milanowski”) came before the Court for hearing. The Court,
4 having considered the Commission’s Motion, the Memorandum of Points and Authorities, the
5 Declarations including Exhibits relating thereto, the Statement of Uncontroverted Facts and
6 Conclusions of Law, and other documents filed in support of the motion, all documents filed in
7 opposition to the Motion and all other evidence and argument presented regarding the motion,
8 granted the Commission’s Motion for Summary Judgment and issued a 23 page Order
9 constituting its Findings and Conclusions in the case. (“Order”). Based upon the Findings and
10 Conclusions contained in the Order, this Court now issues this Amended Final Judgment of
11 Permanent Injunction, Disgorgement, Civil Penalty and Officer and Director Bar against
12 Defendant Milanowski (“Final Judgment”).

13 **I.**

14 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Milanowski and his
15 agents, servants, employees, attorneys, and all persons in active concert or participation with
16 them who receive actual notice of this Final Judgment by personal service or otherwise are
17 permanently restrained and enjoined from violating Section 5 of the Securities Act of 1933
18 (“Securities Act”), 15 U.S.C. § 77e, by, directly or indirectly, in the absence of any applicable
19 exemption:

- 20 (a) Unless a registration statement is in effect as to a security, making use of any
21 means or instruments of transportation or communication in interstate commerce
22 or of the mails to sell such security through the use or medium of any prospectus
23 or otherwise;
- 24 (b) Unless a registration statement is in effect as to a security, carrying or causing to
25 be carried through the mails or in interstate commerce, by any means or
26 instruments of transportation, any such security for the purpose of sale or for
27 delivery after sale; or
- 28 (c) Making use of any means or instruments of transportation or communication in

1 interstate commerce or of the mails to offer to sell or offer to buy through the use or
2 medium of any prospectus or otherwise any security, unless a registration statement has
3 been filed with the Commission as to such security, or while the registration statement is
4 the subject of a refusal order or stop order or (prior to the effective date of the registration
5 statement) any public proceeding or examination under Section 8 of the Securities Act, 15
6 U.S.C. § 77h

7 **II.**

8 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
9 Milanowski and his agents, servants, employees, attorneys, and all persons in active concert or
10 participation with them who receive actual notice of this Final Judgment by personal service or
11 otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities
12 Act, 15 U.S.C. § 77q(a), in the offer or sale of any security by the use of any means or
13 instruments of transportation or communication in interstate commerce or by use of the mails,
14 directly or indirectly:

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

22 **III.**

23 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Milanowski and his
24 agents, servants, employees, attorneys, and all persons in active concert or participation with
25 them who receive actual notice of this Final Judgment by personal service or otherwise are
26 permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the
27 Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5
28 promulgated thereunder, 17 C.F.R. § 240.10b-5, by using any means or instrumentality of

1 interstate commerce, or of the mails, or of any facility of any national securities exchange, in
2 connection with the purchase or sale of any security:

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

9 **IV.**

10 IT IS FURTHER ORDERED that Milanowski shall be liable for disgorgement of
11 \$80,900,000, representing proceeds gained as a result of the conduct alleged in the Complaint,
12 and a third-tier civil penalty in the amount of \$100,000.00 pursuant to Section 20(d) of the
13 Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. §
14 78u(d)(3). Milanowski shall pay post-judgment interest on any delinquent amounts pursuant to
15 28 U.S.C. § 1961. Milanowski shall receive a credit against this disgorgement figure for any
16 sums paid in restitution in any other proceeding filed against him relating to the events in this
17 case. Milanowski shall also receive a credit toward the disgorgement amount from all sums
18 collected by the Trustees in Bankruptcy of any USA Capital entity which relate to the actions for
19 which this Court is assessing disgorgement against Milanowski, less applicable fees and
20 administrative costs, as approved by the Bankruptcy Court. Milanowski shall thus pay a total of
21 \$80,900,000 in disgorgement plus \$100,000.00 in civil penalty (total of \$81,000,000) within
22 fourteen (14) business days after entry of this Final Judgment by certified check, bank cashier's
23 check, or United States Postal money order payable to the Securities and Exchange Commission.
24 The payment shall be delivered or mailed to the Office of Financial Management, Securities and
25 Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O-3,
26 Alexandria, Virginia 22312, and shall be accompanied by a letter identifying Milanowski as a
27 Defendant in this action, setting forth the title and civil action number of this action and the name
28 of this Court, and specifying that payment is made pursuant to this Final Judgment. Milanowski

1 shall simultaneously transmit photocopies of such payment and letter to the Commission's
2 counsel in this action.

3 **V.**

4 IT IS FURTHER ORDERED that Milanowski is permanently barred, pursuant to Section
5 21(d)(2) of the Exchange Act, 15 U.S.C. Section 78u(d)(2), from acting as an officer or director
6 of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act,
7 15 U.S.C. Section 78l, or that is required to file reports pursuant to Section 15(d) of the
8 Exchange Act, Section 78o(d). This Court expressly finds that Milanowski's conduct in this
9 matter violates Section 10(b) of the Exchange Act., 15 U.S.C. Section 78j(b), and demonstrates
10 his unfitness to serve as an officer or director of any public company. The Court also imposes
11 this sanction on Milanowski pursuant to Section 20(e) of the Securities Act, 15 U.S.C. Section
12 77t(e), based upon the nature of Milanowski's violations of Section 17(a) the Securities Act, 15
13 U.S.C. Section 77q(a), in this case and upon his consequent unfitness to serve as an officer or
14 director of any public company.

15 **VI.**

16 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain
17 jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment and all
18 orders and decrees which have been entered or may be entered herein, and to grant such other
19 relief as the Court may deem necessary and just.

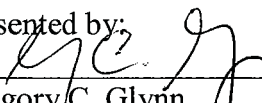
20 **VII.**

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

23 Dated: April 14, 2010



24
25 Kent J. Dawson
UNITED STATES DISTRICT JUDGE

26 Presented by:  3/29/2010
27 Gregory C. Glynn
Attorneys for Plaintiff
28 Securities and Exchange Commission