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RICHARD W. WIEKING  
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NORTHERN DISTRICT OF CALIFORNIA

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11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA

SI

13 SECURITIES AND EXCHANGE COMMISSION,

CV 09  
Case No.

1882 MHP

14 Plaintiff,

15 v.

[PROPOSED]  
FINAL JUDGMENT

16 NASSER M. MARDINI,

17 Defendant.

18  
19 The Securities and Exchange Commission having filed a Complaint and Defendant  
20 Nasser M. Mardini having entered a general appearance; consented to the Court's jurisdiction  
21 over Defendant and the subject matter of this action; consented to entry of this Final Judgment  
22 without admitting or denying the allegations of the Complaint (except as to jurisdiction); waived  
23 findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

24 I.

25 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and  
26 Defendant's agents, servants, employees, attorneys, and all persons in active concert or  
27 participation with them who receive actual notice of this Final Judgment by personal service or  
28 otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section

1 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and  
2 Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or  
3 instrumentality of interstate commerce, or of the mails, or of any facility of any national  
4 securities exchange, in connection with the purchase or sale of any security:

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

11 II.

12 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant  
13 and Defendant's agents, servants, employees, attorneys, and all persons in active concert or  
14 participation with them who receive actual notice of this Final Judgment by personal service or  
15 otherwise are permanently restrained and enjoined from violating Section 14(e) of the Exchange  
16 Act [15 U.S.C. § 78n(e)] and Rule 14e-3 [17 C.F.R. § 240.14e-3] promulgated thereunder, in  
17 connection with any tender offer or request or invitation for tenders, from engaging in any  
18 fraudulent, deceptive, or manipulative act or practice, by:

- 19 (a) purchasing or selling or causing to be purchased or sold the securities sought or to  
20 be sought in such tender offer, securities convertible into or exchangeable for any  
21 such securities or any option or right to obtain or dispose of any of the foregoing  
22 securities while in possession of material information relating to such tender offer  
23 that Defendant knows or has reason to know is nonpublic and knows or has  
24 reason to know has been acquired directly or indirectly from the offering person;  
25 the issuer of the securities sought or to be sought by such tender offer; or any  
26 officer, director, partner, employee or other person acting on behalf of the  
27 offering person of such issuer, unless within a reasonable time prior to any such  
28

1 purchase or sale such information and its source are publicly disclosed by press  
2 release or otherwise; or

3 (b) communicating material, nonpublic information relating to a tender offer, which  
4 Defendant knows or has reason to know is nonpublic and knows or has reason to  
5 know has been acquired directly or indirectly from the offering person; the issuer  
6 of the securities sought or to be sought by such tender offer; or any officer,  
7 director, partner, employee, advisor, or other person acting on behalf of the  
8 offering person of such issuer, to any person under circumstances in which it is  
9 reasonably foreseeable that such communication is likely to result in the purchase  
10 or sale of securities in the manner described in subparagraph (a) above, except  
11 that this paragraph shall not apply to a communication made in good faith

12 (i) to the officers, directors, partners or employees of the offering person, to  
13 its advisors or to other persons, involved in the planning, financing,  
14 preparation or execution of such tender offer;

15 (ii) to the issuer whose securities are sought or to be sought by such tender  
16 offer, to its officers, directors, partners, employees or advisors or to other  
17 persons involved in the planning, financing, preparation or execution of  
18 the activities of the issuer with respect to such tender offer; or

19 (iii) to any person pursuant to a requirement of any statute or rule or regulation  
20 promulgated thereunder.

21 III.

22 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant  
23 is liable for disgorgement of \$291,732.00, representing profits gained as a result of the conduct  
24 alleged in the Complaint, together with prejudgment interest thereon in the amount of  
25 \$39,589.98, for a total of \$331,312.98. Based on Defendant's sworn representations in his  
26 Statement of Financial Condition dated November 1, 2008, and other documents and information  
27 submitted to the Commission, however, the Court is not ordering Defendant to pay a civil  
28 penalty, and payment of all but \$65,000.00 of the disgorgement and pre-judgment interest

1 thereon is waived. Defendant shall satisfy this obligation by paying \$65,000.00, pursuant to the  
 2 terms of the payment schedule set forth in paragraph VI below, by certified check, bank cashier's  
 3 check, or United States postal money order payable to the Securities and Exchange Commission.  
 4 The payment shall be delivered or mailed to the Office of Financial Management, Securities and  
 5 Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-3,  
 6 Alexandria, Virginia 22312, and shall be accompanied by a letter identifying Nasser M. Mardini  
 7 as a defendant in this action; setting forth the title and civil action number of this action and the  
 8 name of this Court; and specifying that payment is made pursuant to this Final Judgment.  
 9 Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC  
 10 § 1961. The Commission shall remit the funds paid pursuant to this paragraph to the United  
 11 States Treasury.

12 VI.

13 Nasser M. Mardini shall pay \$65,000.00 in eight installments of \$8,125.00 according to  
 14 the following schedule:

INSTALLMENT	PAYMENT DUE DATE
1	June 1, 2009
2	September 1, 2009
3	December 1, 2009
4	March 1, 2010
5	June 1, 2010
6	September 1, 2010
7	December 1, 2010
8	March 1, 2011

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

25 V.

26 The determination not to impose a civil penalty and to waive payment of all but  
 27 \$65,000.00 of the disgorgement and pre-judgment interest is contingent upon the accuracy and  
 28 completeness of Defendant's Statement of Financial Condition. If at any time following the

1 entry of this Final Judgment the Commission obtains information indicating that Defendant's  
2 representations to the Commission concerning his assets, income, liabilities, or net worth were  
3 fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such  
4 representations were made, the Commission may, at its sole discretion and without prior notice  
5 to Defendant, petition the Court for an order requiring Defendant to pay the unpaid portion of the  
6 disgorgement, pre-judgment and post-judgment interest thereon, and the maximum civil penalty  
7 allowable under the law. In connection with any such petition, the only issue shall be whether  
8 the financial information provided by Defendant was fraudulent, misleading, inaccurate, or  
9 incomplete in any material respect as of the time such representations were made. In its petition,  
10 the Commission may move this Court to consider all available remedies, including, but not  
11 limited to, ordering Defendant to pay funds or assets, directing the forfeiture of any assets, or  
12 sanctions for contempt of this Final Judgment. The Commission may also request additional  
13 discovery. In opposing such petition Defendant may assert that representations to the  
14 Commission concerning his assets, income, liabilities, or net worth were not fraudulent,  
15 misleading, inaccurate, or incomplete in any material respect as of the time such representations  
16 were made. Defendant may not, by way of defense to such petition: (1) challenge the validity of  
17 the Consent or this Final Judgment; (2) contest the allegations in the Complaint filed by the  
18 Commission; (3) assert that payment of disgorgement, pre-judgment and post-judgment interest  
19 or a civil penalty should not be ordered; (4) contest the amount of disgorgement and pre-  
20 judgment and post-judgment interest; (5) contest the imposition of the maximum civil penalty  
21 allowable under the law; or (6) assert any defense to liability or remedy, including, but not  
22 limited to, any statute of limitations defense.

23 VI.

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

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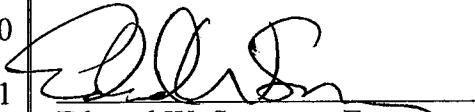
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VII.

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: May 22, 2009

Approved as to form:



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ATTORNEY FOR DEFENDANT NASSER M. MARDINI

