

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES SECURITIES)	
AND EXCHANGE COMMISSION,)	
)	Hon. Jerome B. Simandle, U.S.D.J.
Plaintiff,)	
)	
v.)	Civil Action No.
)	1:09 CV 3599 (JBS) (KMW)
BRIAN J. KEARNS and)	
BRUCE J. VAN FOSSEN,)	
)	
Defendants.)	
_____)	

FINAL JUDGMENT AS TO DEFENDANT BRIAN J. KEARNS

The Securities and Exchange Commission having filed a Complaint and Defendant Brian J. Kearns having entered a general appearance; consented to the Court’s jurisdiction over Defendant 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 Defendant and Defendant's 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)(2) and (3) of the Securities Act of 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)(2) and (3)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (b) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's 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 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Rules 13b2-1 and 13b2-2(a) promulgated thereunder [17 C.F.R. §§ 240.13b2-1 and 240.13b2-2(a)] by:

- (a) knowingly circumventing or knowingly failing to implement a system of internal accounting controls, or knowingly falsifying or causing to be falsified any book, record, or account described in Section 13(b)(2) of the Exchange Act [15 U.S.C. §78m(b)(2)]; or
- (b) directly or indirectly: making or causing to be made a materially false or misleading statement to an accountant in connection with; or omitting to state or causing another person to omit to state any material fact necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading, to an accountant in connection with:
 - (i) any required audit, review, or examination of the financial

statements of an issuer, or

- (ii) the preparation or filing of any document or report required to be filed with the Commission.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's 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 aiding and abetting any violation of Section 13(a), 13(b)(2)(A), and 13(b)(2)(B) [15 U.S.C. § 78m(a), § 78m(b)(2)(A), and § 78m(b)(2)(B)] of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, and 240.13a-13] by knowingly providing substantial assistance to an issuer that:

- (a) fails to file with the Commission factually accurate and complete annual, current, and quarterly reports as required pursuant to Section 13(a) of the Exchange Act, and Exchange Act Rules 13a-1, 13a-11, and 13a-13; or
- (b) omits to state, or causes another person to omit to state, in addition to the information expressly required to be included in such annual and quarterly reports, any such further material information as may be necessary to make the required statements, in light of the circumstances under which such statements were made, not misleading; or
- (c) fails to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer; or

- (d) fails to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that:
- (i) transactions are executed in accordance with management's general or specific authorization;
 - (ii) transactions are recorded as necessary (1) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and (2) to maintain accountability for assets;
 - (iii) access to assets is permitted only in accordance with management's general or specific authorization; and
 - (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall pay a civil penalty in the amount of \$50,000 pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. Defendant shall make this payment within 14 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 Brian J. Kearns 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. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

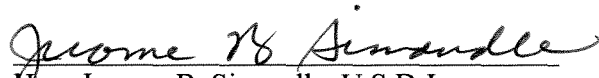
V.

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

VI.

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: April 29, 2011


Hon. Jerome B. Simandle, U.S.D.J.