

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

SECURITIES AND EXCHANGE COMMISSION, )

)

Plaintiff, ) No. 11 C 0246

v. )

)

Judge Robert W. Gettleman

DANIEL J. BURNS, )

)

Defendant. )

**FINAL JUDGMENT AS TO DEFENDANT DANIEL J. BURNS**

This cause coming before the Court upon Plaintiff United States Securities and Exchange Commission's ("SEC") Application for Final Judgment by Default as to Defendant Daniel J. Burns. The Court has considered this application, the memorandum of law, declaration, and exhibits filed in support of the application, and having been fully advised in the premises, finds:

1. That this Court has jurisdiction over the subject matter of this case and there is good cause to believe it will have jurisdiction over all parties hereto;
2. That Defendant Burns has waived Service of Summons and has acknowledged receipt of the complaint, in accordance with Fed. R. Civ. P. 4;
3. That Defendant Burns failed to answer or otherwise respond to the Complaint;
4. That the Court properly entered default against Defendant Burns, pursuant to Fed. R. Civ. P. 55(a), on June 20, 2011.
5. That entry of a Final Judgment against Defendant Burns is appropriate under Fed. R. Civ. P. 55(b)(2);
6. That the injunctive relief, monetary relief, and officer-and-director bar Plaintiff seeks against Defendant is adequately supported in fact and law by the evidence and

methodology set forth in the application, Plaintiff's memorandum in support of the application, the declaration of SEC Staff Accountant Pesach Glaser, and the exhibits attached thereto; and

7. That therefore, Plaintiff's application should be, and is, hereby GRANTED, and the following Order issued:

**I.**

**Judgment By Default**

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that, pursuant to Fed. R. Civ. P. 55(b), judgment by default is hereby entered against Defendant Burns.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED the Court finds in favor of the Plaintiff on all factual allegations and causes of action asserted by Plaintiff in its Complaint against Defendant Burns.

**II.**

**Permanent Injunction Against Violations of Section 17(a) of the Securities Act**

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Burns and his 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)], by, in the offer or sale of any security, using any means or instruments of transportation or communication in interstate commerce or by using the mails, directly or indirectly:

- (1) to employ any device, scheme, or artifice to defraud;

- (2) 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
- (3) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

**III.**

**Permanent Injunction Against Violations of  
Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder**

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Burns and his agents, servants, employees, attorneys, and those persons in active concert or participation with them, and each of 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 (“Exchange Act”) [15 U.S.C. § 78j(b)], and Rule 10b-5 promulgated thereunder [17 CFR § 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.

**IV.**

**Permanent Injunction Against Violations of  
Section 14(a) of the Exchange Act and Rule 14a-9 Thereunder**

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Burns and his 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 14(a) of the Exchange Act [15 U.S.C. § 78n(a)] and Rule 14a-9 promulgated thereunder [17 CFR § 240.10b-5], by using any means or instrumentalities of interstate commerce or the mails, or of a facility of a national securities exchange or otherwise, to solicit by means of a proxy statement, form of proxy, notice of meeting or other communication, written or oral, containing statements which, at the time and in the light of the circumstances under which they were made, are false and misleading with respect to material facts, or omit to state material facts necessary in order to make the statements therein not false or misleading or necessary to correct statements in earlier communications with respect to the solicitation of the proxy for the same meeting or subject matter which were false or misleading.

**V.**

**Permanent Injunction Against Violations of Section 15(a) of the Exchange Act**

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Burns, and his agents, servants, employees, attorneys, and those persons in active concert or participation with them, and each of them who receive actual notice of this Final Judgment by personal service or otherwise, are permanently restrained and enjoined from violating Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)], by making use of the mails or any means or instrumentality of

interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) without being associated with a broker or dealer that is registered in accordance with Section 15(b) of the Exchange Act.

**VI.**

**Permanent Injunction Against Violations of  
Section 16(a) of the Exchange Act and Rule 16a-3 Thereunder**

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Burns and his agents, servants, employees, attorneys, and those persons in active concert or participation with them, and each of them who receive actual notice of this Final Judgment by personal service or otherwise, are permanently restrained and enjoined from violating Section 16(a) of the Exchange Act [15 U.S.C. § 78p(a)] and Rule 16a-3 promulgated thereunder [17 CFR § 240.16a-3], by failing to file statements required by Section 16(a) with the SEC (and, when required by Section 16(a), a national securities exchange), while directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which is registered pursuant to Section 12 of the Exchange Act, or while a director or an officer of the issuer of such security.

**VII.**

**Disgorgement, Prejudgment Interest, and Civil Penalty**

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Burns is liable for disgorgement of \$804,100, representing profits gained or losses avoided as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$324,325, for a total of \$1,128,425. Defendant shall satisfy this obligation by paying \$1,128,425

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, 100 F Street, NE, Stop 6042, Washington DC 20549, and shall be accompanied by a letter identifying Daniel J. Burns 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 Burns shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961. The SEC shall remit the funds paid pursuant to this paragraph to the United States Treasury. The SEC may enforce the Court's judgment for disgorgement, prejudgment interest, and civil penalty by moving for civil contempt (and/or through other collection procedures authorized by law) at any time after 14 days following entry of this Final Judgment. In response to any such civil contempt motion by the SEC, the defendant may assert any legally permissible defense.

## **VIII.**

### **Officer and Director Bar**

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)] and Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], Defendant Burns is permanently prohibited from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

**IX.**

**Retention of Jurisdiction**

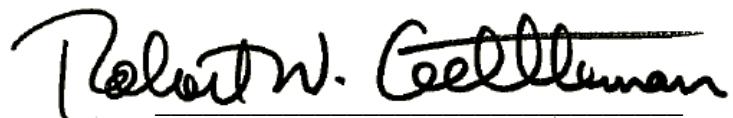
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

**X.**

**Entry of Judgment**

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.

**SO ORDERED** this 27th day of January, 2011.



Robert W. Gettleman  
HON. ROBERT W. GETTLEMAN