

Minute Order Form (06/97)

**United States District Court, Northern District of Illinois**

*[Handwritten signature]*

Name of Assigned Judge or Magistrate Judge	Morton Denlow	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	00 C 2247	DATE	12/14/2000
CASE TITLE	Securities and Exchange Commission vs. Alan C. Gibbons		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

**MOTION:**

**DOCKET ENTRY:**

- (1)  Filed motion of [ use listing in "Motion" box above.]
- (2)  Brief in support of motion due \_\_\_\_\_.
- (3)  Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_\_.
- (4)  Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (5)  Status hearing held.
- (6)  Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (7)  Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
- (8)  [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
- (9)  This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
  - FRCP4(m)  General Rule 21  FRCP41(a)(1)  FRCP41(a)(2).
- (10)  [Other docket entry] Enter final judgment and order of permanent injunction and other relief against Alan Gibbons. The Court shall retain jurisdiction of this action for all purposes, including enforcement of the Final Judgment and Order of Permanent Injunction and other relief.
- (11)  [For further detail see order (on reverse side of/attached to) the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input checked="" type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	courtroom deputy's initials  DK	EC-T FILED FOR DOCKETING 00 DEC 14 PM 4:50	number of notices	Document Number  11
			DEC 15 2000 <small>date docketed</small>	
			[Signature] <small>docketing deputy initials</small>	
			12/14/2000 <small>date mailed notice</small>	
			DK <small>mailing deputy initials</small>	



Judgment and Order of Permanent Injunction and Other Relief (“Final Judgment”), and it further appearing that the Court has jurisdiction over the parties and the subject matter hereof, and the Court being fully advised in the premises:

I.

IT IS ORDERED, ADJUDGED AND DECREED that Gibbons, his agents, servants, employees, attorneys, and those persons in active concert or participation with him who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, be and hereby are permanently restrained and enjoined from, directly or indirectly, in the offer or sale of any securities, by the use of any means or instruments of transportation or communication in interstate commerce, or by the use of the mails:

- (1) employing any device, scheme, or artifice to defraud;
- (2) obtaining money or property by means of any untrue statement of a material fact or any omission 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
- (3) engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser or prospective purchaser, in violation of Sections 17(a)(1), (2) or (3) of the Securities Act of 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)(1), (2) and (3)].

II.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Gibbons, his agents, servants, employees, attorneys, and those persons in active concert or participation with him who receive actual notice of this Final Judgment by personal

service or otherwise, and each of them, be and hereby are permanently restrained and enjoined from, directly or indirectly, in connection with the purchase or sale of securities, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange:

- (1) employing any device, scheme or artifice to defraud;
- (2) making any untrue statement of a material fact or omitting 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
- (3) engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person,

in violation of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

### III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Gibbons pay disgorgement in the amount of \$172,000, representing his gains from the conduct alleged in the Complaint, plus pre-judgment interest thereon in the amount of \$45,653.55. Based upon Gibbons' sworn representations in his Statement of Financial Condition dated July 10, 2000, and in letters updating his Statement of Financial Condition dated September 29, 2000, and October 4, 2000, and submitted to the Commission, payment of the disgorgement and pre-judgment interest thereon is waived, contingent upon the accuracy and completeness of his updated Statement of Financial Condition.

IV.

IT IS FURTHER ORDERED that based upon Gibbons' sworn representations in his Statement of Financial Condition dated July 10, 2000, and letters updating his Statement of Financial Condition dated September 29, 2000, and October 4, 2000, and submitted to the Commission, the Court is not ordering him to pay a civil penalty pursuant to 15 U.S.C. § 77t(d) or 15 U.S.C. § 78u(d). The determination not to impose a civil penalty and to waive payment of the disgorgement and pre-judgment interest thereon is contingent upon the accuracy and completeness of his updated Statement of Financial Condition. If at any time following the entry of this Final Judgment the Commission obtains information indicating that Gibbons' representations to the Commission concerning his assets, income, liabilities, or net worth were fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made, the Commission may, at its sole discretion and without prior notice to Gibbons, petition this Court for an order requiring Gibbons to pay disgorgement, pre-judgment and post-judgment interest thereon, and a civil penalty. In connection with any such petition, the only issues shall be whether the financial information provided by Gibbons was fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made, and the amount of civil penalty to be imposed. In its petition, the Commission may move this Court to consider all available remedies, including, but not limited to, ordering Gibbons to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of this Final Judgment, and the Commission may also request additional discovery. Gibbons may not, by way of defense to such petition, challenge the validity of his Consent or the

Final Judgment, contest the allegations in the Complaint filed by the Commission, contest the amount of disgorgement and interest, or assert that disgorgement or the payment of a civil penalty should not be ordered.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the attached Consent and Stipulation of Gibbons be, and hereby is, incorporated herein with the same force and effect as if fully set out herein and that Gibbons shall comply with his Consent.

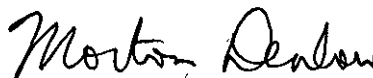
VI.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that there being no just reason for delay, the Clerk of the Court is hereby directed to enter this Final Judgment.

VII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court shall retain jurisdiction of this action for all purposes, including enforcement of the Final Judgment and Order of Permanent Injunction and Other Relief.

SO ORDERED:



\_\_\_\_\_  
Judge Morton Denlow  
United States Magistrate Judge

Dated: December 14, 2000