



SECURITIES AND EXCHANGE COMMISSION,

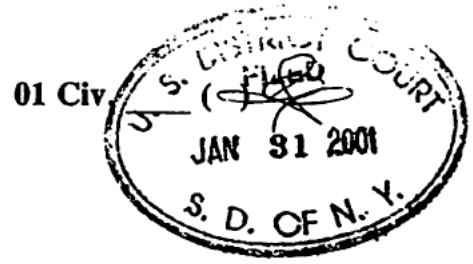
Plaintiff,

v.

AURORA FOODS INC., et al.,

Defendants.

01 CIV 0554



**FINAL CONSENT JUDGMENT OF PERMANENT INJUNCTION  
AND OTHER RELIEF AS TO JAMES W. ELLIOTT**

Plaintiff Securities and Exchange Commission ("Commission"), having filed a Complaint on January 23, 2001, charging, among others, Defendant James Elliott ("Elliott") with violations of Section 13(b)(5) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §78m(b)(5)], and Rule 13b2-1 [17 C.F.R. §240.13b2-1], and Elliott having executed the annexed Consent of James Elliott ("Consent"), having admitted to the jurisdiction of this Court over him and over the subject matter of this action, having admitted to receiving service of the Summons and Complaint in this action, having waived the filing of an answer pursuant to Rule 12 of the Federal Rules of Civil Procedure and the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, and, without admitting or denying the allegations contained in the Complaint (except as to jurisdiction, which are admitted) having consented to the entry of this Final Consent Judgment of Permanent Injunction And Other Relief As To James W. Elliott ("Final Judgment"), without further notice:

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**I.**

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant Elliott be and hereby is permanently enjoined from, directly or indirectly, singly or in concert,

- (A) knowingly circumventing or knowingly failing to implement a system of internal accounting controls or knowingly falsifying any book, record, or account described in Section 13(b)(2) of the Exchange Act [15 U.S.C. §78m(b)(2)], in violation of Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)]; or
- (B) falsifying or causing to be falsified any book, record or account subject to Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. §78m(b)(2)(A)], in violation of Rule 13b2-1 [17 C.F.R. §240.13b2-1].

**II.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, within sixty (60) days of the entry of this Final Judgment, Elliott shall pay \$10,000 to the United States Treasury ("Treasury") as a civil penalty pursuant to Section 21(d) of the Exchange Act, 15 U.S.C. §77u(d). Such payment shall be made by cashier's check, certified check, U.S. postal money order, or bank money order payable to the order of the "United States Securities and Exchange Commission." The payment shall be transmitted to the Comptroller, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, under cover of letter identifying the name and civil action number of this litigation and the name of Defendant and identifying the payment as a civil penalty. A copy of the cover letter and payment shall be simultaneously transmitted to Wayne M. Carlin, Esq., Regional Director, U.S. Securities and Exchange Commission, Northeast Regional Office, 7 World Trade Center, 13th Floor, New York, New York 10048, Attn: Mark K. Schonfeld, Esq.

**III.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, pursuant to Federal Rule of Civil Procedure 65(d), this Final Judgment is binding upon Elliott, his agents, servants, employees, and attorneys-in-fact, and upon those persons in active concert or participation with Elliott who receive actual notice of this Final Judgment by personal service or otherwise.

**IV.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that plaintiff Commission may effect service of this Final Judgment, and all other papers in this action, upon defendant Elliott by sending a copy via first class mail to his counsel, Benson A. Wolman, of Wolman, Genshaft & Gellman, 341 South Third Street, Suite 301, Columbus, Ohio 43215-5463, unless Elliott notifies the Commission otherwise by letter addressed to counsel for the Securities and Exchange Commission, Northeast Regional Office, 7 World Trade Center, New York, New York 10048, Attn.: Mark K. Schonfeld, Esq.

**V.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the annexed Consent of Defendant Elliott shall be, and hereby is, incorporated herein with the same force as if fully set forth herein.

**VI.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that this Court shall retain jurisdiction of this action for all purposes, including, but not limited to, implementing and enforcing the terms and conditions of this Final Judgment.

**VII.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, there being no just reason for delay, the Clerk of this Court is hereby directed to enter this Final Judgment forthwith pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

## CONSENT OF JAMES W. ELLIOTT

1. Defendant James W. Elliott (“Elliott”), being fully apprised of his rights, having had the opportunity to confer with legal counsel, having read and understood the terms of the Final Consent Judgment of Permanent Injunction and Other Relief As To Defendant James W. Elliott (“Final Judgment”), appears and admits the jurisdiction of this Court over him and over the subject matter of this action, waives the filing of an answer pursuant to Rule 12 of the Federal Rules of Civil Procedure, and the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, and, without admitting or denying the allegations contained in the Complaint of Plaintiff Securities and Exchange Commission (“Commission”), except as to jurisdiction (which are admitted), hereby consents to the entry, without further notice, of the Final Judgment.

2. Elliott agrees that this Consent of James W. Elliott (“Consent”) shall be incorporated by reference in and made part of the Final Judgment to be presented to the Court for signature, filing and entry contemporaneously herewith.

3. Elliott waives any right he may have to appeal from the Final Judgment.

4. Elliott acknowledges that any willful violation of any of the terms of the Final Judgment may place him in contempt of this Court and subject him to civil or criminal penalties.

5. Elliott acknowledges that he enters into this Consent voluntarily, and that this Consent and the Final Judgment, embody the entire understanding of the parties. Elliott acknowledges and agrees that this proceeding, and his consent to the entry of the Final Judgment, are for the purposes of resolving this civil action only, and that no tender, offer, promise, threat

or representation of any kind has been made by Plaintiff Commission or any member, officer, attorney, agent, or representative thereof, to induce him to enter into this Consent.

6. Elliott acknowledges that he has been informed and understands that Plaintiff Commission, at its sole and exclusive discretion, may refer or grant access to this matter, or any information or evidence gathered in connection therewith or derived therefrom, to any person or entity having appropriate administrative, civil, or criminal jurisdiction, if the Commission has not already done so.

7. Elliott acknowledges and agrees that his consent to the entry of the Final Judgment is for the purposes of this action only, in conformity with the provisions of 17 C.F.R. § 202.5(f), and does not resolve, affect or preclude any other proceeding which may be brought against him. Among other things, Elliott waives any right he may have to assert that, under the Double Jeopardy Clause of the Fifth Amendment to the United States Constitution, the relief sought or consented to in this civil action, including the seeking or imposition of any remedy or civil penalty herein, bars any criminal action, or that any criminal action bars the relief consented to in this action.

8. Defendant Elliott understands and agrees to comply with the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings" (17 C.F.R. § 202.5(e)). In compliance with this policy, Elliott agrees not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any allegation in the Complaint or creating the impression that the Complaint is without factual basis. If Elliott breaches this agreement, the Commission may petition the Court to vacate the Final Judgment and restore this action to its active docket. Nothing in this provision affects Elliott's: (i)

testimonial obligations; or (ii) right to take legal positions in litigation in which the Commission is not a party.

9. Elliott agrees to execute and return promptly acknowledgment of receipt of the Final Judgment once the Final Judgment has been entered by the Court and forwarded to him for this purpose.

10. Elliott consents that this Court shall retain jurisdiction of this action for the purpose of implementing and enforcing the terms and conditions of the annexed Final Judgment and for all other purposes.

11. Elliott agrees that first class and certified mail to his attorney, Benson A. Wolman, of Wolman, Genshaft & Gellman, 341 South Third Street, Suite 301, Columbus, Ohio 43215-5463, shall be deemed personal service for all correspondence, service and notices as to any matter related to this Consent and the Final Judgment, unless Elliott notifies the Commission otherwise by letter at the following address: Wayne M. Carlin, Esq., Regional Director, U.S. Securities and Exchange Commission, Northeast Regional Office, 7 World Trade Center, New York, New York 10048, Attn: Mark K. Schonfeld, Esq.

