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DISTRICT OF UTAH
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DEPUTY CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

GEORGE BADGER, et al.,

Defendant.

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:
:
NO. 2:97-CV-0963K
:
:
FINAL CONSENT JUDGMENT
OF PERMANENT INJUNCTION
AND OTHER RELIEF AS
TO DEFENDANT
:
HAROLD B. GALLISON, JR.
:
:
:

Plaintiff Securities and Exchange Commission ("Commission") having commenced this action by filing a complaint for injunctive and other relief on December 18, 1997, and having filed an Amended Complaint for injunctive and other relief on August 20, 1999 ("Amended Complaint"), against, among others, defendant Harold B. Gallison, Jr. ("Gallison"), alleging that he violated Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)], and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)], and Rule 10b-5 [17 C.F.R. § 240.10b-5]; defendant Gallison, having executed the annexed Consent of Defendant Harold B. Gallison, Jr. ("Consent"), having entered a general appearance, having admitted to the jurisdiction of this Court over him and over the subject matter of this action, having waived the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, and

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having consented, without admitting or denying the allegations contained in the Amended Complaint (except as to jurisdiction), to the entry without further notice of this Final Consent Judgment of Permanent Injunction And Other Relief As To Defendant Harold B. Gallison, Jr. ("Final Judgment"):

I.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that defendant Gallison be and hereby is permanently enjoined and restrained from, directly or indirectly, singly or in concert, in the offer or sale of any security, by the use of any means or instrument of transportation or communication in interstate commerce, or of the mails:

- (A) employing any device, scheme, or artifice to defraud;
- (B) 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 statement made, in light of the circumstances under which it was made, not misleading; and
- (C) engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser,

in violation of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

II.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Gallison be and hereby is permanently enjoined and restrained from, directly or indirectly, singly or in concert, in connection with the purchase or sale of any security, by use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange:

- (A) employing any device, scheme, or artifice to defraud;
- (B) making any untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (C) 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 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 defendant Gallison shall disgorge to the United States Treasury the amount of \$65,112.59, representing the sum of the \$35,875.00 that he received as a result of the conduct alleged in the Amended Complaint and prejudgment interest thereon of \$29,237.59. Payment of the full amount shall be made within ten business days of the entry of this

Final Judgment, and shall be made by postal money order, certified check, bank cashier's check or bank money order, payable to the order of the United States Securities and Exchange Commission. Such payment shall be transmitted to the Comptroller, United States Securities and Exchange Commission, 450 Fifth Street, N.W., Washington D.C. 20549, under cover of a letter identifying this Court, the title and civil action number of this litigation and defendant Gallison as payor and stating that the payment is disgorgement. Complete copies of the cover letter and check or money order shall be simultaneously transmitted to Robert N. Knuts, Securities and Exchange Commission, 7 World Trade Center, New York, New York 10048.

IV.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Gallison shall pay a civil penalty to the United States Treasury pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 78t(d)], and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], in the amount of \$50,000. Payment of the full amount shall be made within ten business days of the entry of this Final Judgment, and shall be made by postal money order, certified check, bank cashier's check or bank money order, payable to the order of the United States Securities and Exchange Commission. Such payment shall be transmitted to the Comptroller, United States Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C.

20549, under cover of a letter identifying this Court, the title and civil action number of this litigation and defendant Gallison as payor and stating that the payment is a civil penalty. Complete copies of the cover letter and check or money order shall be simultaneously transmitted to Robert N. Knuts, Securities and Exchange Commission, 7 World Trade Center, New York 10048.

V.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the annexed Consent be, and the same hereby is, incorporated in this Final Judgment with the same force and effect as if fully set forth herein.

VI.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to Rule 65(d) of the Federal Rules of Civil Procedure, this Final Judgment and every paragraph herein is binding on defendant Gallison and his agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise.

VII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction of this matter for all purposes, including the implementation and enforcement of this Final

Judgment.

VIII.

The Court expressly determines that there is no just reason for delay in the entry of this Final Judgment. The Clerk of the Court is hereby directed pursuant to Rule 54(b) of the Federal Rules of Civil Procedure to enter this Final Judgment forthwith.

CONSENT OF DEFENDANT HAROLD B. Gallison, Jr.

1. Defendant Harold B. Gallison, Jr. ("Gallison"), upon the advice of counsel and being fully apprised of his rights, having read and understood the terms of the annexed Final Consent Judgment Of Permanent Injunction And Other Relief As To Defendant Harold B. Gallison, Jr. ("Final Judgment"), appears and admits to the jurisdiction of this Court over him and over the subject matter of this action, waives 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, except as to jurisdiction, of the Amended Complaint filed herein by plaintiff United States Securities and Exchange Commission ("Commission"), hereby consents to the entry, without further notice, of the annexed Final Judgment.

2. Defendant Gallison agrees that this Consent Of Defendant Harold B. Gallison, Jr. ("Consent") shall be incorporated by reference in and made part of the annexed Final Judgment to be presented to the Court for signature, filing, and entry contemporaneously herewith.

3. Defendant Gallison waives any right he may have to appeal from the annexed Final Judgment.

4. Defendant Gallison acknowledges that, with the exception of the Commission's acceptance of defendant Gallison's offer to consent to entry of an administrative order pursuant to Rule 240 of the Commission's Rules of Practice, this Consent and the annexed

Final Judgment embody the entire understanding of the parties.

5. Defendant Gallison enters into this Consent voluntarily and acknowledges that no tender, offer, promise or threat of any kind whatsoever has been made by the Commission or any of its members, officers, agents, attorneys or representatives to induce defendant Gallison to enter into this Consent.

6. Defendant Gallison acknowledges that any violation of any of the terms or provisions of the annexed Final Judgment may place him in contempt of this Court and subject him to civil or criminal sanctions.

7. Defendant Gallison acknowledges that he has been informed and understands that plaintiff Commission, at its sole and exclusive discretion, may refer this matter, or any information or evidence gathered in connection therewith or derived therefrom, to any person or entity having appropriate civil, administrative or criminal jurisdiction.

8. Defendant Gallison acknowledges that no promise or representation has been made by plaintiff Commission or its staff with regard to: (1) any criminal liability arising from the facts underlying this action; or (2) immunity from any such criminal liability.

9. Defendant Gallison acknowledges and agrees that this proceeding, and his consent to the entry of the Final Judgment, are for the sole purpose of resolving this civil proceeding against

defendant Gallison, in conformity with the provisions of 17 C.F.R. § 202.5(f), and do not resolve, affect or preclude any other proceeding which may be brought against defendant Gallison or anyone else. Among other things, defendant Gallison 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 to which he consented in this civil action bars any criminal action, or that any criminal action bars the relief to which he consented in this civil action.

10. Defendant Gallison 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, defendant Gallison agrees: (i) not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any allegation in the Amended Complaint or creating the impression that the Amended Complaint is without factual basis; and (ii) that upon the filing of this Consent, defendant Gallison hereby withdraws any papers filed in this action to the extent that they deny any allegation in the Amended Complaint. If defendant Gallison breaches this agreement, the Commission may petition the Court to vacate the Final Judgment and restore this case to its active docket. Nothing in this provision affects defendant

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

11. Defendant Gallison consents that this Court shall retain jurisdiction of this action for all purposes.

12. Defendant Gallison hereby consents and agrees that the annexed Final Judgment may be presented by the Commission

alt

United States District Court
for the
District of Utah
December 2, 2002

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:97-cv-00963

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

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