

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

United States Courts
Southern District of Texas
ENTERED

DEC 02 2003

SECURITIES AND EXCHANGE §
COMMISSION, §
Plaintiff, §

Michael N. Milby, Clerk of Court

v. §

CIVIL ACTION NO. H-01-2579

HARRIS DEMPSEY BALLOW, §
CHRISTOPHER HARLESS, MURRY §
SHEPHERD AND DIANE L. JOHNSON §
Defendants. §

**FINAL JUDGMENT OF PERMANENT INJUNCTION AND
OTHER RELIEF AGAINST DEFENDANT HARRIS DEMPSEY BALLOW**

The Court has considered the pleadings, the Securities and Exchange Commission's (the "SEC's") Motion for Summary Judgment against Defendants Harris Dempsey Ballow ("Ballow"), Christopher Harless ("Harless"), and Murry Shepherd ("Shepherd"), as well as the responsive submissions, all documents, and other materials of record. The Court, as explained in detail in the Memoranda and Orders entered June 2, 2003 and September 9, 2003, finds that:

1. This Court has jurisdiction over the subject matter of this case and all of the parties hereto.

2. Defendant Ballow has engaged in acts, practices, and courses of business that constitute violations of the federal securities laws. Specifically, Ballow participated in a scheme to manipulate the market for Evans Systems, Inc. common stock by executing wash

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sales and matched orders in that stock. These transactions, acts, and courses of business constitute violations of Section 17(a) of the Securities Act of 1933, 15 U.S.C. § 77q(a) (the “Securities Act”), and Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78(b) (the “Exchange Act”), and Rule 10b-5, 17 C.F.R. § 240.10b-5, promulgated thereunder.

3. Without an order permanently enjoining Ballow from violating the securities laws set forth herein, there is a substantial likelihood that he will continue to violate the federal securities laws.

4. In addition, it is necessary for Ballow to pay a civil penalty in order to make his violations of the federal securities laws unprofitable and to deter future violations.

It is therefore

ORDERED, ADJUDGED AND DECREED that Defendant Ballow, his agents, servants, employees, attorneys and those persons in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, and each of them, be and are hereby 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, employing any device, scheme, or artifice to defraud, in violation of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), 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 the use of the mails:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) 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
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

It is further

ORDERED, ADJUDGED AND DECREED that Defendant Ballow, his agents, servants, employees, attorneys and those persons in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, and each of them, be and are hereby permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5, promulgated thereunder, 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 a statement made, in light of the circumstances under which it was made, not misleading; or

C. engaging in any act, practice or course of business that operates or would operate as a fraud or deceit upon any person,

It is further

ORDERED, ADJUDGED AND DECREED that Defendant Ballow, his agents, servants, employees, attorneys and those persons in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, and each of them, be and are hereby permanently restrained and enjoined from engaging in the promotion of securities.

It is further

ORDERED, ADJUDGED AND DECREED that Defendant Ballow shall pay a third tier civil penalty in the amount of \$1,100,000.00, pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3). Defendant Ballow shall make this payment within thirty 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 Ballow as the 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.

It is further

ORDERED, ADJUDGED AND DECREED that the findings of fact and conclusions of law contained in the Court's Memoranda and Orders entered June 2, 2003 and September 9, 2003, in which the Court granted partial summary judgment in favor of the SEC and against Ballow, are incorporated in this Final Judgment with the same force and effect as if fully set forth herein, and Ballow is collaterally estopped from relitigating any factual findings made against him in the Court's Memoranda and Orders in any proceeding brought by or on behalf of the SEC. It is further


ORDERED, ADJUDGED AND DECREED that this Final Judgment resolves all claims asserted by the SEC against Ballow in this lawsuit. 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. It is further

ORDERED, ADJUDGED AND DECREED that, there being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk shall enter this Final Judgment as to Defendant Ballow forthwith.

The Clerk shall provide a copies of this Final Judgment to all parties.

SIGNED at Houston, Texas, this **30th day of November, 2003**.


NANCY F. ATLAS
UNITED STATES DISTRICT JUDGE