

I.

ORDERED that defendant FITZGERALD, his agents, servants, employees, attorneys and those persons in active concert or participation with them, in connection with the purchase or sale of securities, by use of any means or instrumentalities of interstate commerce, or by the mails or any facility of any national securities exchange, be, and they hereby are, enjoined from, directly or indirectly:

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

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, 17 C.F.R. 240.10b-5, thereunder.

II.

IT IS FURTHER ORDERED that defendant FITZGERALD pay disgorgement in the amount of \$122,424, representing \$102,771 of gains or losses avoided from the conduct alleged in the Complaint, plus pre-judgment interest thereon of \$19,653,

computed at the IRS rate on delinquent taxes. Defendant Fitzgerald shall pay the disgorgement of \$122,424 no later than the following dates: \$20,000 within thirty (30) days from the entry of this judgment; \$20,000 within 120 days from the entry of this judgment; \$20,000 within 180 days from the entry of this judgment; \$20,000 within 240 days from the entry of this judgment; \$20,000 within 300 days of the entry of this judgment and \$22,424 within 360 days of the entry of this judgment. Such payments shall be (a) made by postal money order, certified check, bank cashier's check or bank money order; (b) made payable to the Securities and Exchange Commission; (c) hand-delivered or delivered by overnight delivery service to the Comptroller, Securities and Exchange Commission, 6432 General Green Way, Alexandria, VA 22312; and (d) submitted under a cover letter which identifies the defendant as a defendant in these proceedings and the civil action number of these proceedings, a copy of which cover letter and money order or check shall be sent to William P. Hicks, District Trial Counsel, Securities and Exchange Commission, 3475 Lenox Road, N.E., Suite 1000, Atlanta, Georgia 30326-1232.

III.

IT IS FURTHER ORDERED that defendant Fitzgerald is ordered to pay civil penalty of \$51,385 pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1]. Such payments shall be (a) made by postal money order, certified check, bank cashier's check or

bank money order; (b) made payable to the Securities and Exchange Commission; (c) hand-delivered or delivered by overnight delivery service to the Comptroller, Securities and Exchange Commission, 6432 General Green Way, Alexandria, VA 22312; and (d) submitted under a cover letter which identifies the defendant as a defendant in these proceedings and the civil action number of these proceedings, a copy of which cover letter and money order or check shall be sent to William P. Hicks, District Trial Counsel, Securities and Exchange Commission, 3475 Lenox Road, N.E., Suite 1000, Atlanta, Georgia 30326-1232, within 540 days from the entry of this judgment.

Additional civil penalties are not being imposed based upon defendant FITZGERALD's representations in his Sworn Statement of Financial Condition dated April 4, 2002, submitted to the Securities and Exchange Commission. The determination not to impose additional civil penalties is contingent upon the accuracy and completeness of FITZGERALD's Statement of Financial Condition. If at any time following the entry of this Final Judgment the Commission obtains information indicating that defendant FITZGERALD's Statement of Financial Condition concerning Fitzgerald's assets, income, liabilities, or net worth was 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 defendant FITZGERALD, petition this Court for an order imposing additional civil penalties. In connection with any such petition, the only issues shall be whether the financial information provided by defendant FITZGERALD 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 defendant FITZGERALD 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. Defendant FITZGERALD may not, by way of defense to such petition, challenge the validity of this Consent or the Final Judgment or contest the allegations in the Complaint filed by the Commission.

IV.

IT IS FURTHER ORDERED that this Court will retain jurisdiction over this matter and defendant FITZGERALD for all purposes and will order other and further relief that this Court deems appropriate under the circumstances.

Done and ordered at 3 o'clock P. m. this 2 day of October, 2002 at Atlanta, Georgia.


UNITED STATES DISTRICT JUDGE