

FILED
TIME: _____

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO SEP 27 2004
EASTERN DIVISION**

JAMES BONINI, Clerk
COLUMBUS, OHIO

U.S. SECURITIES AND EXCHANGE :
COMMISSION, :
Plaintiff, :

No. C2 02 629
(Graham J., Kemp M.J.)

vs. :

VON CHRISTOPHER CUMMINGS, :
PARAMOUNT FINANCIAL PARTNERS, L.P., :
PARAMOUNT CAPITAL :
MANAGEMENT, L.L.C., :
JOHN A. RYAN, :
KEVIN L. GRANDY, :
JAMES CURTIS CONLEY, :
KEVIN D. HIGHTOWER, :
MICHAEL J. LOUIS, :
JOHN E. HAWLEY, JR., :
MICHAEL L. VOGT, :
OMAR BENAUDA :

Defendants, :

GORDON LENDING CORP., :
GORDON L. YOCOM, :
AND PATRICK SUSEMIHL, :
Relief Defendants. :

FINAL JUDGMENT AS TO DEFENDANT KEVIN D. HIGHTOWER

The Securities and Exchange Commission having filed a Complaint and Defendant Kevin D. Hightower (“Defendant”) having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, or aiding and abetting the violation of, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], 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 the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section

15(a) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78o(a)] by making use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) unless such broker or dealer is registered in accordance with Section 15(b) of the Exchange Act [15 U.S.C. § 78o(b)].

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of one hundred thirty-six thousand dollars (\$136,000), representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of thirty-two thousand two hundred three dollars and fifty-one cents (\$32,203), for a total of one hundred sixty-eight thousand two hundred three dollars (\$168,203). Defendant shall satisfy this obligation by paying one hundred sixty-eight thousand two hundred three dollars (\$168,203) within ten (10) business days to the Clerk of this Court, together with a cover letter identifying Kevin D. Hightower as 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. Defendant shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action. By making this payment, Defendant relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Defendant. The Clerk shall deposit the funds into an interest bearing account with the Court Registry Investment System ("CRIS"). These funds, together with any interest and income earned thereon (collectively, the "Fund"), shall be

held by the CRIS until further order of the Court. In accordance with the guidelines set by the Director of the Administrative Office of the United States Courts, the Clerk is directed, without further order of this Court, to deduct from the income earned on the money in the Fund a fee equal to ten percent (10%) of the income earned on the Fund. Such fee shall not exceed that authorized by the Judicial Conference of the United States. The Commission may propose a plan to distribute the Fund subject to the Court's approval.

IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall pay a civil penalty in the amount of twenty-five thousand dollars (\$ 25,000) pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. Defendant shall make this payment within ten (10) business 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 Kevin D. Hightower as a defendant in this action; setting forth the title and civil action number of this action and the name of this

V.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

VI.

IT IS HEREBY 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.

Dated: September 27, 2004

s/ James L. Graham
JAMES L. GRAHAM
UNITED STATES DISTRICT JUDGE

Requested by:

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