

ORIGINAL

FILED

AUG 13 2003

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DEPUTY CLERK

1 HELANE L. MORRISON (State Bar No. 127752)
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4 Attorneys for Plaintiff
5 SECURITIES AND EXCHANGE COMMISSION
6 44 Montgomery Street, Suite 1100
7 San Francisco, California 94104
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9 **LODGED**

UNITED STATES DISTRICT COURT

AUG 11 2003

EASTERN DISTRICT OF CALIFORNIA

10 CLERK, U.S. DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

CLOSED

AUG 13 2003

DEPUTY CLERK

12 SECURITIES AND EXCHANGE COMMISSION,

Civ. S-02-1395 LKK KJM

13 Plaintiff,

14 vs.

[PROPOSED] FINAL JUDGMENT OF
PERMANENT INJUNCTION AND OTHER
RELIEF

15 GREGORY P. WALDON,

16 Defendant.

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18
19 Plaintiff Securities and Exchange Commission ("Plaintiff" or "Commission") has filed its
20 Complaint in this action. Defendant Gregory P. Waldon ("Defendant" or "Waldon") has entered
21 a general appearance; consented to the Court's jurisdiction over Defendant and the subject matter
22 of this action; consented to entry of this Final Judgment of Permanent Injunction and Other
23 Relief ("Final Judgment") without admitting or denying the allegations of the Complaint (except
24 as to jurisdiction); waived findings of fact and conclusions of law as provided by Rule 52 of the
25 Federal Rules of Civil Procedure; and waived any right to appeal from this Final Judgment:

26 I.

27 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant,
28 Defendant's agents, servants, employees, attorneys, assigns, and all persons in active concert or

25

1 participation with them who receive actual notice of this Final Judgment by personal service or
2 otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities
3 Act of 1933 (“Securities Act”) [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use
4 of any means or instruments of transportation or communication in interstate commerce or by use
5 of the mails, directly or indirectly:

- 6 (a) to employ any device, scheme, or artifice to defraud;
- 7 (b) to obtain money or property by means of any untrue statement of a material fact or
8 any omission of a material fact necessary in order to made the statement made, in
9 light of the circumstances under which they were made, not misleading; or
- 10 (c) to engage in any transaction, practice, or course of business which operates or
11 would operate as a fraud or deceit upon the purchaser.

12 II.

13 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
14 Defendant, Defendant’s agents, servants, employees, attorneys, assigns, and all persons in
15 active concert or participation with them who receive actual notice of this Final Judgment by
16 personal service or otherwise are permanently restrained and enjoined from violating, directly
17 or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15
18 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], by using any means or
19 instrumentality of interstate commerce, or of the mails, or of any facility of any national
20 securities exchange, in connection with the purchase or sale of any security:

- 21 (a) to employ any device, scheme, or artifice to defraud;
- 22 (b) to make any untrue statement of a material fact or to omit to state a material fact
23 necessary in order to make the statements made, in the light of the circumstances
24 under which they were made, not misleading; or
- 25 (c) to engage in any act, practice, or course of business which operates or would
26 operate as a fraud or deceit upon any person.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that the total amount of disgorgement for the conduct alleged in the Complaint is \$231,858, plus prejudgment interest thereon in the amount of \$4,520, for a total amount of \$236,378. Defendant shall satisfy this obligation by paying \$90,000, in accordance with the terms set forth in V., below and subject to IV., below.

IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that based on Defendant's sworn representations in his Statement of Financial Condition dated February 26, 2003, and other documents and information submitted to the Commission, the Court is not ordering Defendant to pay a civil penalty, and payment of all but \$90,000 of the disgorgement and pre-judgment interest thereon is waived. The determination not to impose a civil penalty, and to waive payment of all but \$90,000 of the disgorgement and pre-judgment interest is contingent upon the accuracy and completeness of Defendant's Statement of Financial Condition. If at any time following the entry of this Final Judgment the Commission obtains information indicating that Defendant's representations to the Commission concerning his assets, income, liabilities, or net worth were 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, petition the Court for an order requiring Defendant to pay the unpaid portion of the disgorgement, pre-judgment and post-judgment interest thereon, and the maximum civil penalty allowable under the law. In connection with any such petition, the only issue shall be whether the financial information provided by Defendant was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made. In its petition, the Commission may move this Court to consider all available remedies, including, but not limited to, ordering Defendant to pay funds or assets, directing the forfeiture of any assets, or imposing sanctions for contempt of this Final Judgment. The Commission may also request additional discovery. Defendant may not, by way of defense to such petition: (1) challenge the validity of his Consent or the Final Judgment; (2) contest the

1 allegations in the Complaint filed by the Commission; (3) assert that payment of disgorgement,
2 pre-judgment interest and post-judgment interest thereon or a civil penalty should not be ordered;
3 (4) contest the amount of disgorgement and pre-judgment and post-judgment interest; (5) contest
4 the imposition of the maximum civil penalty allowable under the law; or (6) assert any defense to
5 liability or remedy, including, but not limited to, any statute of limitations defense.

6 V.

7 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall
8 satisfy the obligation to pay the \$90,000 of disgorgement not waived as set forth in III. and IV.,
9 above, by paying \$30,000 within ten business days by certified check or money order drawn to
10 the order of "Clerk, United States District Court, Eastern District of California," whereupon the
11 Clerk of this Court, or the Financial Deputy Clerk, is hereby directed to deposit said certified
12 check or money order into an interest bearing account (the "Account") with the Court Registry
13 Investment System ("CRIS"). Simultaneously with payment, Defendant shall send copies of any
14 certified checks or money orders to Susan F. LaMarca, Securities and Exchange Commission, 44
15 Montgomery Street, Suite 1100, San Francisco, California, 94104, under cover identifying
16 Gregory P. Waldon as a defendant in this action; setting forth the title and case number of this
17 action and the name of this Court; and specifying that payment is made pursuant to this Final
18 Judgment. Thereafter, Defendant shall make four further payments of \$15,000 each within two
19 years, in the same manner set forth above, on or before the following dates: first subsequent
20 payment due date: 180 days after entry of the Final Judgment; second subsequent payment due
21 date: 360 days after entry of the Final Judgment; third subsequent payment due date: 540 days
22 after entry of the Final Judgment; fourth installment due date: 720 days after entry of the Final
23 Judgment. The Account shall be held by the CRIS until further order of the Court, and
24 distributed pursuant to a Court-approved plan to be proposed by motion of the Commission, but
25 in no event shall the monies paid revert, directly or indirectly, to Defendant, or his heirs or
26 assigns. Interest earned on the Account shall be credited to the Account and shall thereafter be
27 treated in the same manner as principal. The Clerk of the Court is directed, without further order
28 of this Court, to deduct from the income earned on the investment a fee, not exceeding that

1 authorized by the Judicial Conference of the United States and set by the Director of the
2 Administrative Office of the United States Courts, at or equal to 10 percent of the income earned
3 in the investment so held.

4 VI.

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

8 VII.

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain
10 jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

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13 Dated: 8/13/2003

Paul F. [su.]
United States District Judge

14
15
16 Approved as to form:

17
18 Jeffrey C. Hallam
19 Jeffrey C. Hallam, Esquire
20 SIDEMAN & BANCROFT LLP
21 One Embarcadero Center, Eighth Floor
22 San Francisco, California 94111
(415) 392-1960
Counsel for Defendant Gregory P. Waldon

23 Submitted By:

24 Susan F. LaMarca
25 Susan F. LaMarca
26 SECURITIES AND EXCHANGE COMMISSION
27 44 Montgomery Street, Suite 1100
28 San Francisco, California 94104
(415) 705-2500
Counsel for Plaintiff

United States District Court
for the
Eastern District of California
August 13, 2003

* * CERTIFICATE OF SERVICE * *

2:02-cv-01395

SEC

v.

Waldon

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

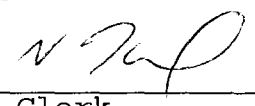
That on August 13, 2003, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office, or, pursuant to prior authorization by counsel, via facsimile.

Susan F LaMarca AR/LKK
Securities and Exchange Commission
44 Montgomery Street
Suite 1100
San Francisco, CA 94104

Jeffrey Charles Hallam
Sideman and Bancroft
One Embarcadero Center
Suite 860
San Francisco, CA 94111

VAC PT 2/9/04, JT 5/11/04

Jack L. Wagner, Clerk

BY: 
Deputy Clerk