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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

03-4655

CBM

SECURITIES AND EXCHANGE
COMMISSION,

Civil Action No.

Plaintiff,

~~[PROPOSED]~~ FINAL JUDGMENT
OF PERMANENT INJUNCTION
AND OTHER RELIEF AGAINST
DEFENDANT STEPHEN LEE
ADLMAN

vs.

EK-1, INC. AND STEPHEN LEE
ADLMAN,

Defendants.

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Plaintiff Securities and Exchange Commission ("Commission"), having filed and served upon Defendant Stephen Lee Adlman ("Adlman") a Summons and Complaint in this action; Adlman having admitted service upon him of the Summons and Complaint in this action and the jurisdiction of this Court over him and over the subject matter of this action; having been fully advised and informed of his right to a judicial determination of this matter; having waived the entry of findings of fact and conclusions of law as provided by Rule 52 of the Federal Rules of Civil Procedure; having consented to the entry of this Final Judgment Of Permanent Injunction And Other Relief Against Stephen Lee Adlman

JUL 15 2003

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1 (“Judgment”) without admitting or denying the allegations in the Complaint,
2 except as specifically set forth in the Consent Of Stephen Lee Adlman To Entry Of
3 Final Judgment Of Permanent Injunction And Other Relief (“Consent”); no notice
4 of hearing upon the entry of this Judgment being necessary; and this Court being
5 fully advised:

6 I.

7 IT IS ORDERED ADJUDGED AND DECREED that Adlman and his
8 officers, agents, servants, employees, attorneys, and all persons in active concert
9 or participation with any of them, who receive actual notice of this Judgment, by
10 personal service or otherwise, and each of them, are permanently restrained and
11 enjoined from, directly or indirectly:

- 12 A. making use of any means or instruments of transportation or
13 communication in interstate commerce or of the mails to sell the
14 securities of any issuer, through the use or medium of any prospectus
15 or otherwise, unless and until a registration statement is in effect as to
16 such securities;
- 17 B. carrying or causing to be carried through the mails or in interstate
18 commerce, by any means or instruments of transportation, for the
19 purpose of sale or for delivery after sale, the securities of any issuer,
20 unless and until a registration statement is in effect as to such
21 securities; and
- 22 C. making use of any means or instruments of transportation or
23 communication in interstate commerce or of the mails to offer to sell
24 or offer to buy, through the use or medium of any prospectus or
25 otherwise, the securities of any issuer, unless and until a registration
26 statement has been filed with the Commission as to such securities, or
27 while a registration statement has been filed with the Commission as
28 to such securities, or while a registration statement as to such

1 securities is the subject of a refusal order or stop order or (prior to the
2 effective date of the registration statement) any public proceeding or
3 examination under Section 8 of the Securities Act, 15 U.S.C. § 77h;
4 in violation of Sections 5(a) and 5(c) of the Securities Act of 1933, 15 U.S.C.
5 §§ 77e(a) and 77e(c); provided, however, that nothing in this Judgment shall apply
6 to any security or transaction which is exempt from the provisions of Section 5 of
7 the Securities Act, 15 U.S.C. § 77e.

8 II.

9 IT IS ORDERED, ADJUDGED AND DECREED that Adlman and his
10 officers, agents, servants, employees, attorneys, and all persons in active concert
11 or participation with any of them, who receive actual notice of this Judgment, by
12 personal service or otherwise, and each of them, are permanently restrained and
13 enjoined from, directly or indirectly, in the offer or sale of the securities of any
14 issuer, by the use of any means or instruments of transportation or communication
15 in interstate commerce or by the use of the mails:

- 16 A. employing any device, scheme or artifice to defraud;
17 B. obtaining money or property by means of any untrue statement of a
18 material fact or any omission to state a material fact necessary in
19 order to make the statements made, in the light of the circumstances
20 under which they were made, not misleading; or
21 C. engaging in any transaction, practice, or course of business which
22 operates or would operate as a fraud or deceit upon the purchaser;
23 in violation of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

24 III.

25 IT IS ORDERED, ADJUDGED AND DECREED that Adlman and his
26 agents, servants, employees and attorneys, and all persons in active concert or
27 participation with any of them, who receive actual notice of this Judgment by
28 personal service or otherwise, and each of them, are permanently restrained and

1 enjoined from, directly or indirectly, in connection with the purchase or sale of any
2 security, by the use of any means or instrumentality of interstate commerce, or of
3 the mails, or of any facility of any national securities exchange:

4 A. employing any device, scheme, or artifice to defraud;

5 B. making any untrue statement of a material fact or omitting to state a
6 material fact necessary in order to make the statements made, in the
7 light of the circumstances under which they were made, not
8 misleading; or

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

11 in violation of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange
12 Act"), 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

13 IV.

14 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Adlman
15 shall pay disgorgement in the amount of \$40,869, representing his ill-gotten gains
16 from the conduct alleged in the Complaint, together with prejudgment interest
17 thereon in the amount of \$9,291. Furthermore, this Court orders Adlman to pay a
18 \$120,000 civil penalty pursuant to Section 21(d)(3) of the Exchange Act, 15
19 U.S.C. § 78u(d)(3), and Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d).

20 V.

21 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Adlman
22 be prohibited permanently, pursuant to Section 21(d)(2) of the Exchange Act, 15
23 U.S.C. § 78u(d)(2), from acting as an officer or director of any issuer that has a
24 class of securities registered pursuant to Section 12 of the Exchange Act, 15
25 U.S.C. § 781, or that is required to file reports pursuant to Section 15(d) of the
26 Exchange Act, 15 U.S.C. § 78o(d).

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VI.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the provisions of the Consent filed concurrently with this Judgment are incorporated herein with the same force and effect as if fully set forth herein and that Adlman shall comply with his Consent.

VII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction over this action for all purposes, including to implement and enforce the terms of this Judgment and other orders and decrees which may be entered, and to grant such other relief as this Court may deem necessary and just.

VIII.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that during the pendency of this action against any defendant, Adlman shall remain subject to the discovery provisions of the Federal Rules of Civil Procedure which apply to parties, and, in addition, that Adlman agrees and undertakes, without service of a subpoena, to appear for his deposition or to testify as a witness at any trial of this action or at any related proceeding. Failure to comply with the foregoing will subject Adlman to the remedies and sanctions set forth in Rule 37 of the Federal Rules of Civil Procedure and all other available remedies.

IX.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Adlman is liable for disgorgement of \$40,869, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$9,291, and a civil penalty in the amount of \$120,000 pursuant to Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), and Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d). Adlman shall satisfy this obligation by paying \$170,160 within ten business days to the

1 Clerk of this Court, together with a cover letter identifying Adlman as a defendant
2 in this action; setting forth the title and civil action number of this action and the
3 name of this Court; and specifying that payment is made pursuant to this Final
4 Judgment. Adlman shall simultaneously transmit photocopies of such payment
5 and letter to the SEC's counsel in this action. By making this payment, Adlman
6 relinquishes all legal and equitable right, title, and interest in such funds, and no
7 part of the funds shall be returned to Adlman. The Clerk shall deposit the funds
8 into an interest bearing account with the Court Registry Investment System
9 ("CRIS"). These funds, together with any interest and income earned thereon
10 (collectively, the "Fund"), shall be held by the CRIS until further order of the
11 Court. In accordance with the guidelines set by the Director of the Administrative
12 Office of the United States Courts, the Clerk is directed, without further order of
13 this Court, to deduct from the income earned on the money in the Fund a fee equal
14 to ten percent of the income earned on the Fund. Such fee shall not exceed that
15 authorized by the Judicial Conference of the United States. The Commission may
16 by motion propose a plan to distribute the Fund subject to the Court's approval.
17 Such a plan may provide that Fund shall be distributed pursuant to the Fair Fund
18 provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. Regardless of
19 whether any such Fair Fund distribution is made, amounts ordered to be paid as
20 civil penalties pursuant to this Judgment shall be treated as penalties paid to the
21 government for all purposes, including all tax purposes.

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X.

There being no just reason for delay, the Clerk of the Court is hereby directed, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, to enter this Judgment.

DATED: 7/14/03


UNITED STATES DISTRICT JUDGE

Submitted By:



Janet R. Rich
Attorney for Plaintiff
Securities and Exchange Commission