

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
SECURITIES AND EXCHANGE)	
COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 03-10762-PBS
)	
BRIAN ADLEY,)	
)	
Defendant.)	
_____)	

FINAL JUDGMENT AS TO DEFENDANT BRIAN ADLEY

January 3, 2008

Saris, U.S.D.J.

The Securities and Exchange Commission ("Commission") filed a Complaint on April 24, 2003, against Defendant Brian Adley. After a jury verdict in favor of the Commission, a hearing on remedies on December 20, 2007, and review of the post-trial submissions, the Court orders the following relief:

1. **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 from violating, directly or indirectly:

(a) Section 10(b) of 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 national securities exchange, in connection with the

purchase or sale of any security:

(i) to employ any device, scheme, or artifice to defraud;

(ii) 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 light of the circumstances under which they are made, not misleading; or

(iii) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

(b) Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1] by knowingly circumventing and/or knowingly failing to implement a system of internal controls or knowingly falsifying any book, record or account.

(c) Exchange Act Rule 13b2-2 [17 C.F.R. § 240.13b2-2] by making or causing to be made any materially misleading statement to an accountant, in connection with the preparation or filing of any required document or report with the Commission.

(d) Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Exchange Act Rules 12b-20, 13a-1, 13a-11, and 13a-13 [17 C.F.R. §§ 240.12b20, 240.13a-1, 240.13a-11, and 240.13a-13] in connection with the filing of false and misleading current reports on Form 8-K, quarterly reports, and annual reports.

(e) Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)] in connection with the failure to keep and to maintain books, records and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of an issuer.

(f) Section 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)] in connection with the failure to devise and to maintain a system of internal controls sufficient to ensure the preparation of financial statements in conformance with generally accepted accounting principles ("GAAP").

2. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall disgorge \$930,000, the amount of the fee received by Vestex in excess of the legitimate fees and expenses related to the Tomahawk transaction.¹ The Court declines to order

¹ The Court found the Commission's calculation of the Vestex disgorgement amount in its Revised Reply Memorandum of Law in

disgorgement of the Merrill-Lynch line of credit for reasons stated in court. I decline to award prejudgment interest. I also decline to impose a civil penalty due to the Defendant's likely inability to pay any additional money. Defendant shall make this payment within thirty (30) 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 Brian Adley 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. A copy of the correspondence shall be sent to Paul D. Block, Securities and Exchange Commission, 33 Arch Street, 23rd Floor, Boston, Massachusetts, 02110.

3. **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Defendant is barred for twenty years from this date from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act, 15 U.S.C. § 78l or that is required to file reports pursuant to Section 15(d) of the Exchange Act, 15 U.S.C. § 78o(d).

Support of its Motion for Remedies (Document No. 264) to be reasonable and accurate. Adley submitted no evidence under oath which refuted this calculation.

4. **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that this court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

5. The Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Dated: January 3, 2008

S/PATTI B. SARIS
United States District Judge