

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECURITIES AND EXCHANGE	§	
COMMISSION,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 3:07-CV-1188-D
VS.	§	
	§	
AMERIFIRST FUNDING, INC.,	§	
et al.,	§	
	§	
Defendants.	§	

AGREED FINAL JUDGMENT OF PERMANENT INJUNCTION AND OTHER
EQUITABLE RELIEF AGAINST DENNIS W. BOWDEN

The March 27, 2009 unopposed motion to enter judgment of plaintiff Securities and Exchange Commission ("SEC") is granted. Accordingly, the SEC having filed a complaint and defendant Dennis W. Bowden ("Bowden") having entered a general appearance, having consented to the court's jurisdiction over the subject matter of this action, having consented to entry of this final judgment without admitting or denying the allegations of the complaint (except as to jurisdiction), having waived findings of fact and conclusions of law, and having waived any right to appeal from this final judgment, it is ordered and adjudged as follows.

I

Bowden, his officers, agents, servants, employees, and attorneys, and all those in active concert or participation with him who receive actual notice of this final judgment by personal service or otherwise, are permanently restrained and enjoined from violating § 10(b) of the Securities Exchange Act of 1934 (the

"Exchange Act") [15 U.S.C. § 78j(b)], and Rule 10b-5 [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 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 and adjudged that Bowden, his officers, agents, servants, employees, and attorneys, and all those in active concert or participation with him who receive actual notice of this final judgment by personal service or otherwise, are permanently restrained and enjoined from violating § 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)], by, in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce, or by the use of the mails, directly or indirectly:

- (a) to employ any device, scheme or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission 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 transaction, practice, or course of business which operates or would operate as a fraud or deceit upon any purchaser.

III

It is hereby further ordered and adjudged that Bowden, his officers, agents, servants, employees, and attorneys, and all those in active concert or participation with him who receive actual notice of this final judgment by personal service or otherwise, are permanently restrained and enjoined from violating § 5 of the Securities Act [15 U.S.C. § 77e], by directly or indirectly, in the absence of any applicable exemption:

- (a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;
- (b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or
- (c) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the SEC as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under § 8 of the Securities Act [15 U.S.C. § 77h].

IV

It is hereby further ordered and adjudged that Bowden is liable for disgorgement of \$54,237,462.00, representing funds he received and/or controlled as a result of the conduct alleged in the complaint, plus prejudgment interest thereon in the amount of \$2,476,410.00. Based on Bowden's sworn representations in his Statement of Financial Condition, dated February 26, 2009, and other documents and information submitted to the SEC, however, Bowden's liability for monetary relief is subject to the following terms.

A. The court is not ordering Bowden to pay the prejudgment interest of \$2,476,410.00 or a civil penalty;

B. The Receiver has obtained from Bowden during the course of the litigation assets identified in Appendix A to the consent. Bowden agrees that he relinquishes all title, claim, and ownership over these assets and transfers all title, claim, and ownership to the Receiver. The Receiver will liquidate these assets in satisfaction of Bowden's disgorgement obligation. If, after liquidation of all assets listed above, Bowden's assets do not fully satisfy his \$54,237,462.00 disgorgement obligation, the SEC will waive the outstanding balance. Bowden shall timely execute, at the request of the Receiver, all documents necessary to transfer title, without encumbrances, of the foregoing assets to the Receiver. Transfers or assignments by Bowden of assets to the

Receiver, as specified in this section, shall be made pursuant to specifications to be provided to Bowden by the Receiver.

V

Other defendants and relief defendants are jointly and severally liable with Bowden as follows: (1) Jeffrey C. Bruteyn; (2) AmeriFirst Funding, Inc., up to the amount of \$38,192,835.00, plus prejudgment interest of \$1,283,835.00; (3) AmeriFirst Acceptance Corp., up to the amount of \$16,099,875.00, plus prejudgment interest of \$540,955.00; (4) American Eagle Acceptance Corp., up to the amount of \$14,927,506.00, plus prejudgment interest of \$501,564.00; and (5) Hess Financial Corp., up to the amount of \$5,700,000, plus prejudgment interest in the amount of \$191,520.00.

VI

The determination not to impose a civil penalty and to waive payment of all remaining disgorgement and prejudgment interest is contingent upon the accuracy and completeness of Bowden's Statement of Financial Condition. If at any time following the entry of this final judgment the SEC obtains information indicating that Bowden's representations to the SEC 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 SEC may, at its sole discretion and without prior notice to Bowden, petition the court for an order

requiring Bowden to pay the unpaid portion of the disgorgement, prejudgment 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 Bowden was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made. In its petition, the SEC may move this court to consider all available remedies, including, but not limited to, ordering Bowden to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of this final judgment. The SEC may also request additional discovery. Bowden may not, by way of defense to such petition: (1) challenge the validity of the consent or this final judgment; (2) contest the allegations in the complaint filed by the SEC; (3) assert that payment of disgorgement, prejudgment and post-judgment interest or a civil penalty should not be ordered; (4) contest the amount of disgorgement and prejudgment and post-judgment interest; (5) contest the imposition of the maximum civil penalty allowable under the law; or (6) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

VII

It is further ordered and adjudged that the consent is incorporated herein with the same force and effect as if fully set forth herein, and that Bowden shall comply with all of the

undertakings and agreements set forth therein.

VIII

This court shall retain jurisdiction of this action for all purposes, including for purposes of entertaining any suitable application or motion by the SEC for additional relief within the jurisdiction of this court, including, but not limited to, the relief requested by the SEC in its complaint in this action.

IX

It is further ordered and adjudged that this court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this final judgment.


X

This final judgment of permanent injunction and other equitable relief may be served upon Bowden in person or by mail either by the United States Marshal, the Clerk of the Court, or any member of the staff of the SEC.

XI

Pursuant to Fed. R. Civ. P. 54(b), the court expressly determines that there is no just reason for delay and directs the Clerk of Court to enter this as a final judgment.

Done at Dallas, Texas March 30, 2009.



SIDNEY A. FITZWATER
CHIEF JUDGE