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8	UNITED STATES DISTRICT COURT		
9	NORTHERN DISTRICT OF CALIFORNIA		
10	SECUDITIES AND EVOLUNICE COMMISSION	Case No. CV 08 4089 BZ	
11	SECURITIES AND EXCHANGE COMMISSION,	Case No. CV 08 4089 BZ	
12	Plaintiff,	[DDODOSED] EINAT HIDOMENT AS TO	
13	VS. JOHN EARL BRAKE,	[P ROPOSED] FINAL JUDGMENT AS TO DEFENDANT JOHN EARL BRAKE	
14	Defendant.		
15	Defendant.		
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18	The Securities and Exchange Commission having filed a Complaint and Defendant John Ear		
19	Brake ("Brake" or "Defendant") having entered a general appearance; consented to the Court's		
20	jurisdiction over Brake and the subject matter of this action; consented to entry of this Final		
21	Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction);		
22	waived findings of fact and conclusions of law; and waived any right to appeal from this Final		
23	Judgment:		
24	I.		
25	IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Brake and his agents,		
26	servants, employees, attorneys-in-fact, and all persons in active concert or participation with any of		
27	them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each o		
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them, are permanently enjoined and restrained from, directly or indirectly, violating, or aiding and abetting violations of, Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder by:

- 1. employing any device, scheme, or artifice to defraud;
- 2. making any untrue statement of a material fact or omitting 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
- 3. engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person,

in connection with the purchase or sale of the securities of any issuer, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange.

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 Section 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)] 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 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 of a material fact necessary in order to make the statements made, in 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 the purchaser.

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Final Judgment as to Defendant John Earl Brake SEC v. Brake, Case No. CV 08 4089 BZ

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$5,000,000 representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$1,327,291, with all but \$1,200,0000 waived. Based on Defendant's sworn representations in his Statement of Financial Condition dated August 11, 2009, 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 \$1,200,000 of the disgorgement and pre-judgment interest thereon is waived. After entry of this Final Judgment, Defendant shall satisfy this obligation by paying pursuant to the terms of the payment schedule set forth in paragraph IV below 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 John Earl Brake as a 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 pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

IV.

John Earl Brake shall pay \$1,200,000.00 in three installments according to the following schedule: (1) \$40,000, within ten days of entry of this Final Judgment; (2) \$40,000 within ninety days of entry of this Final Judgment plus post-judgment interest pursuant to 28 U.S.C. § 1961; and (3) \$1,120,000 within one year of the date of entry of this Final Judgment plus post-judgment interest pursuant to 28 U.S.C. § 1961.

Securities and Exchange Commission 44 Montgomery Street, 26th Floor San Francisco, CA 94104 Telephone: (415) 705-2500

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1	If Brake fails to make any payment by the date agreed and/or in the amount agreed		
2	according to the schedule set forth above, all outstanding payments under this Final Judgment,		
3	including post-judgment interest, minus any payments made, shall become due and payable immediately without further application to the Court.		
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6	V.		
7	IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent of Defendan		
8	John Earl Brake to Entry of Final Judgment, filed concurrently, is incorporated in the Final Judgmen		
9	with the same force and effect as if fully set forth herein, and that Brake shall comply with all of the		
10	undertakings and agreements set forth therein.		
11	VI.		
12	IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain		
13	jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.		
14	PRESENTED BY:		
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17	Michael S. Dicke John S. Yun Kristin A. Snyder		
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20	Attorneys for Plaintiff SECURITIES AND EXCHANGE COMMISSION 44 Montgomery Street, Suite 2600 San Francisco, California 94104 Telephone: (415) 705-2500		
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23	Fax: (415) 705-2501		
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25	Dated this 4th day of December , 2009 Brook Towns		
26	Honorable Bernard Zimmerman		
27	United States Magistrate Judge		
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