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MIDDLE DISTRICT COURT
FT. MYERS, FLORIDA

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
(Ft. Myers Division)**

Case No. 2:04-CV-105-FTM-29DNF

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

**KS ADVISORS, INC.,
KS CONDOR PARTNERS, LTD., II,
DAMIAN PARTNERS, LLC
SCOTT FINE,
AND KEVIN BOYLE,**

Defendants.

**JUDGMENT OF PERMANENT INJUNCTION AND OTHER
RELIEF AGAINST DEFENDANT SCOTT FINE**

Plaintiff Securities and Exchange Commission ("SEC" or "Commission") commenced this action by filing its complaint on February 26, 2004 ("Complaint") against, among others, Defendant Scott Fine ("Defendant"). In its Complaint, the Commission sought, among other relief, a permanent injunction to prohibit violations by the Defendant of Section 17(a) of the Securities Act of 1933 ("Securities Act"), Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), and Rule 10b-5, thereunder, and Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 ("Advisers Act"), an order providing for disgorgement and prejudgment interest thereon, and imposition of a civil money penalty against Defendant pursuant to Section 20(d) of

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the Securities Act, Section 21(d) of the Exchange Act, and Section 209(e) of the Advisers Act.

Defendant, by the Consent affixed hereto, without admitting or denying any of the allegations in the Commission's Complaint or any other paper filed herein, except as to the jurisdiction of this Court, has agreed to the entry of this Judgment of Permanent Injunction and Other Relief ("Judgment"). This Court having accepted such Consent and this Court having jurisdiction over the Defendant and the subject matter hereof, and the Court being fully advised in the premises,

I.

FRAUD IN VIOLATION OF SECTION 17(a) OF THE SECURITIES ACT

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Defendant, his officers, agents, servants, employees, representatives, and all persons in active concert or participation with him, and each of them, directly or indirectly, who receive actual notice of this Final Judgment, by personal service or otherwise, are hereby permanently restrained and enjoined from, directly or indirectly, singly or in concert, as aiders and abettors or otherwise, 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:

- (a) knowingly employing any device, scheme or artifice to defraud;
- (b) obtaining money or property by means of any untrue statement of material fact or omission to state any material fact necessary in order to make the

statement made, in light of the circumstances under which it was made, not misleading; or

- (c) engaging in any transaction, practice or course of business which operates or would operate as a fraud or deceit upon purchasers or prospective purchasers of any such security,

in violation of Sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Securities Act, 15 U.S.C. §§ 77q(a)(1), 77q(a)(2) and 77q(a)(3).

II.

FRAUD IN VIOLATION OF SECTION 10(b) OF THE EXCHANGE ACT AND RULE 10b-5 THEREUNDER

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant, his officers, agents, servants, employees, representatives, and all persons in active concert or participation with him, and each of them, directly or indirectly, who receive actual notice of this Final Judgment, by personal service or otherwise, are hereby permanently restrained and enjoined from, knowingly, willfully, or recklessly, directly or indirectly, singly or in concert, as aiders and abettors or otherwise, in connection with the purchase or sale of any security, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange:

- (a) employing any device, scheme or artifice to defraud;
- (b) making any untrue statements of 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

(c) engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person, in violation of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5, thereunder.

III.

FRAUD IN VIOLATION OF SECTIONS 206(1) AND 206(2) OF THE ADVISERS ACT

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant, his officers, agents, servants, employees, representatives, and all persons in active concert or participation with him, and each of them, directly or indirectly, who receive actual notice of this Final Judgment, by personal service or otherwise, be and they hereby are, permanently restrained and enjoined from, knowingly, willfully, or recklessly, directly or indirectly, singly or in concert, as aiders and abettors or otherwise, by the use of the mails or any means or instrumentality of interstate commerce:

- (a) employing any device, scheme or artifice to defraud any clients or prospective client; or
 - (b) engaging in any transaction, practice or course of business which operates as a fraud or deceit upon any client or prospective client,
- in violation of Sections 206(1) and 206(2) of the Advisers Act, 15 U.S.C. §§ 80b-6(1) and 80b-6(2).

IV.

DISGORGEMENT

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Defendant shall disgorge, with prejudgment interest, all ill-gotten profits or proceeds that he received, directly or indirectly, as a result of the acts or courses of conduct described in the Complaint. The dollar amount of disgorgement shall be reached by agreement of the parties or, if the parties are unable to reach agreement, the amount shall be determined by the Court upon the Commission's motion. Defendant may not, by way of defense to such a motion, challenge or otherwise contest the allegations of the Complaint, which shall be deemed true by the Court for purposes of this motion. Nothing in this Judgment shall prevent Defendant from presenting evidence regarding the amount of disgorgement sought by the Commission in such motion.

V.

PENALTIES

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that the amount of civil penalties, if any, that Defendant shall be required to pay pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9], in connection with the activities described in the Complaint, shall be determined by the Court upon the Commission's motion. Defendant may not, by way of defense to such a motion, challenge or otherwise contest the allegations of the Complaint, which shall be deemed true by the Court for purposes of this motion. Nothing in this Judgment shall

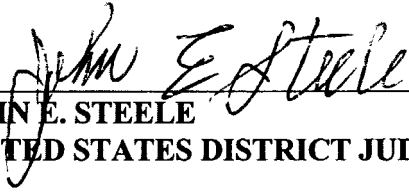
prevent Defendant from presenting evidence of factors mitigating against the imposition of a civil penalty, or its amount.

VI.

RETENTION OF JURISDICTION

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction over this matter and Defendant in order to implement and carry out the terms of all Orders and Decrees that may be entered and/or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court, and will order other relief that this Court deems appropriate under the circumstances.

DONE AND ORDERED in Chambers at Fort Meyers, Florida this 25th day of May, 2004.



JOHN E. STEELE
UNITED STATES DISTRICT JUDGE

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