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8
9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **SOUTHERN DIVISION**

12 SECURITIES AND EXCHANGE
13 COMMISSION,

14 Plaintiff,

15 v.

16 THOMAS A. LABRY,
17 CHEROKEE GAS SYSTEMS, INC., SHEA
C. SILVA, and GARY MADDUX

18 Defendants.

Case No. SACV 10-0018 JVS (VBKx)

**JUDGMENT OF PERMANENT
INJUNCTION AND OTHER
RELIEF AS TO DEFENDANT
GARY MADDUX**

1 The Securities and Exchange Commission having filed a First Amended
2 Complaint and Defendant Gary Maddux having entered a general appearance;
3 consented to the Court’s jurisdiction over Defendant Maddux and the subject matter
4 of this action; consented to entry of this Judgment without admitting or denying the
5 allegations of the Complaint (except as to jurisdiction); waived findings of fact and
6 conclusions of law; and waived any right to appeal from this Judgment:

7 **I.**

8 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant
9 Maddux and his agents, servants, employees, attorneys, and all persons in active
10 concert or participation with them who receive actual notice of this Judgment by
11 personal service or otherwise are permanently restrained and enjoined from
12 violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of
13 1934 (the “Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated
14 thereunder, 17 C.F.R. § 240.10b-5, by using any means or instrumentality of
15 interstate commerce, or of the mails, or of any facility of any national securities
16 exchange, in connection with the purchase or sale of any security:

- 17 (a) to employ any device, scheme, or artifice to defraud;
- 18 (b) to make any untrue statement of a material fact or to omit to state a
19 material fact necessary in order to make the statements made, in the
20 light of the circumstances under which they were made, not
21 misleading; or
- 22 (c) to engage in any act, practice, or course of business which operates or
23 would operate as a fraud or deceit upon any person.

24 **II.**

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

1 enjoined from violating Section 17(a) of the Securities Act of 1933 (the “Securities
2 Act”), 15 U.S.C. § 77q(a), in the offer or sale of any security by the use of any
3 means or instruments of transportation or communication in interstate commerce
4 or by use of the mails, directly or indirectly:

- 5 (a) to employ any device, scheme, or artifice to defraud;
- 6 (b) to obtain money or property by means of any untrue statement of a
7 material fact or any omission of a material fact necessary in order to
8 make the statements made, in light of the circumstances under which
9 they were made, not misleading; or
- 10 (c) to engage in any transaction, practice, or course of business which
11 operates or would operate as a fraud or deceit upon the purchaser.

12 **III.**

13 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
14 that Defendant Maddux and his agents, servants, employees, attorneys, and all
15 persons in active concert or participation with them who receive actual notice of
16 this Judgment by personal service or otherwise are permanently restrained and
17 enjoined from violating Section 5 of the Securities Act, 15 U.S.C. § 77e, by,
18 directly or indirectly, in the absence of any applicable exemption:

- 19 (a) Unless a registration statement is in effect as to a security, making use
20 of any means or instruments of transportation or communication in
21 interstate commerce or of the mails to sell such security through the
22 use or medium of any prospectus or otherwise;
- 23 (b) Unless a registration statement is in effect as to a security, carrying or
24 causing to be carried through the mails or in interstate commerce, by
25 any means or instruments of transportation, any such security for the
26 purpose of sale or for delivery after sale; or
- 27 (c) Making use of any means or instruments of transportation or
28 communication in interstate commerce or of the mails to offer to sell

1 or offer to buy through the use or medium of any prospectus or
2 otherwise any security, unless a registration statement has been filed
3 with the Commission as to such security, or while the registration
4 statement is the subject of a refusal order or stop order or (prior to the
5 effective date of the registration statement) any public proceeding or
6 examination under Section 8 of the Securities Act, 15 U.S.C. § 77h.

7 **IV.**

8 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
9 Defendant Maddux and his agents, servants, employees, attorneys, and all persons
10 in active concert or participation with them who receive actual notice of this
11 Judgment by personal service or otherwise are permanently restrained and enjoined
12 from violating Section 15(a) of the Exchange Act, 15 US.C. § 78o(a), by not being
13 registered as a broker or dealer with the Commission, while directly or indirectly,
14 being either a person other than a natural person or a natural person not associated
15 with a broker or dealer which is a person other than a natural person, made use of
16 the mails or a means or instrumentality of interstate commerce to effect transactions
17 in, or to induce or attempt to induce the purchase or sale of, securities.

18 **V.**

19 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
20 that Defendant Maddux shall pay disgorgement of ill-gotten gains, prejudgment
21 interest thereon, and a civil penalty pursuant to Section 20(d) of the Securities Act,
22 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C.
23 § 78u(d)(3). The Court shall determine the amounts of the disgorgement and civil
24 penalty upon motion of the Commission. Prejudgment interest shall be calculated
25 from January 7, 2010, based on the rate of interest prescribed by 28 U.S.C. § 1981.
26 In connection with the Commission's motion for disgorgement and/or civil
27 penalties, and at any hearing held on such a motion: (a) Defendant Maddux will be
28 precluded from arguing that he did not violate the federal securities laws as alleged

1 in the Complaint; (b) Defendant Maddux may not challenge the validity of the
2 Consent or this Judgment; (c) solely for the purposes of such motion, the
3 allegations of the Complaint shall be accepted as and deemed true by the Court;
4 and (d) the Court may determine the issues raised in the motion on the basis of
5 affidavits, declarations, excerpts of sworn deposition or investigative testimony,
6 and documentary evidence, without regard to the standards for summary judgment
7 contained in Rule 56(c) of the Federal Rules of Civil Procedure. In connection
8 with the Commission's motion for disgorgement and/or civil penalties, the parties
9 may take discovery, including discovery from appropriate non-parties.

10 **VI.**

11 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the
12 Consent is incorporated herein with the same force and effect as if fully set forth
13 herein, and that Defendant Maddux shall comply with all of the undertakings and
14 agreements set forth therein.

15 **VII.**

16 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this
17 Court shall retain jurisdiction of this matter for the purposes of enforcing the terms
18 of this Judgment.

19 **VIII.**

20 There being no just reason for delay, pursuant to Rule 54(b) of the Federal
21 Rules of Civil Procedure, the Clerk is ordered to enter this Judgment forthwith and
22 without further notice.

23
24 Dated: June 23, 2010


HONORABLE JAMES V. SELNA
UNITED STATES DISTRICT JUDGE