UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,)))
Plaintiff,) No. 09-cv-0683
v.) Hon. James B. Zagel
SCOTT M. ROSS,)
Defendant.))

PLAINTIFF'S AGREED MOTION TO DISMISS ITS MONETARY CLAIMS AGAINST DEFENDANT SCOTT M. ROSS

Plaintiff Securities and Exchange Commission ("the Commission") respectfully moves to dismiss its claims for disgorgement, prejudgment interest and civil penalties against Defendant Scott M. Ross ("Ross").

In support of its Motion, counsel for the Commission states as follows:

1. The SEC filed a complaint against Ross on February 3, 2009. In Sections III and IV of the Prayer for Relief in that complaint, the Commission requested that the Court require the Defendant to: (a) disgorge the ill-gotten gains that he received as a result of his wrongful conduct, including prejudgment interest; and (b) pay civil penalties pursuant to Section 20(d) of the Securities Act of 1933 [15 U.S.C. §77t(d)] and Section 21(d)(3) of the Securities Exchange Act of 1934 [15 U.S.C. §78u(d)(3)].

- 2. The Defendant signed a settlement offer pursuant to which he agreed to the entry of an order ("the Partial Final Judgment") imposing a permanent injunction and other relief and requiring, among other things, the payment of disgorgement and civil penalties, with the Court to determine the amount of disgorgement and civil penalties at a later date. The Court signed the Partial Final Judgment on February 3, 2009.
- 3. In March 2011, Ross pleaded guilty to one count of mail fraud in a parallel criminal proceeding. Based on that guilty plea, Ross was sentenced in July 2011 to 72 months in prison and ordered to pay \$3.7 million in restitution. He is currently incarcerated at the Federal Correctional Institution in Oxford, Wisconsin.
- 4. The Commission has now decided to dismiss its claims for disgorgement, prejudgment interest and civil penalties against the Defendant.
- 5. Plaintiff has discussed this motion with counsel for the Defendant and counsel has no objection to the dismissal of the Commission's claims for disgorgement, prejudgment interest, and civil penalties against Ross.
- 6. Plaintiff has discussed this motion with counsel for the Receiver and counsel has no objection to the dismissal of the Commission's claims for disgorgement, prejudgment interest, and civil penalties against Ross.

WHEREFORE, for the foregoing reasons, plaintiff United States Securities and Exchange Commission respectfully requests that this Court enter an order dismissing the Commission's claims for disgorgement, prejudgment interest, and civil penalties against the Defendant.

Respectfully submitted,

s/ Andrew P. O'Brien_

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Dated: February 13, 2013