

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
Andrew P. O'Brien
One of the Attorneys for Plaintiff
U.S. SECURITIES AND
EXCHANGE COMMISSION
175 W. Jackson Blvd., Suite 900
Chicago, IL 60604
Telephone: (312) 353-7390
Facsimile: (312) 353-7398

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