

1 JOHN M. McCOY III, Cal. Bar No. 166244  
 Email: mccoymj@sec.gov  
 2 SUSAN F. HANNAN, Cal. Bar No. 97604  
 Email: hannans@sec.gov

JS-6

3 Attorneys for Plaintiff  
 4 Securities and Exchange Commission  
 Rosalind R. Tyson, Regional Director  
 5 Andrew G. Petillon, Associate Regional Director  
 5670 Wilshire Boulevard, 11th Floor  
 6 Los Angeles, California 90036  
 Telephone: (323) 965-3998  
 7 Facsimile: (323) 965-3908

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

11 SECURITIES AND EXCHANGE  
 12 COMMISSION,

13 Plaintiff,

14 vs.

15 GORDON A. DRIVER and ACCESS  
 16 AUTOMATION, LLC,

17 Defendants.

Case No. CV 09-3410 ODW (RZx)

**JUDGMENT OF PERMANENT  
 INJUNCTION AND OTHER  
 RELIEF AGAINST GORDON A.  
 DRIVER**

18  
 19  
 20  
 21  
 22  
 23  
 24  
 25  
 26  
 27  
 28

1 Plaintiff Securities and Exchange Commission (“Commission”) having filed  
2 a Complaint and Defendant Gordon A. Driver (“Driver”) having entered a general  
3 appearance; consented to the Court’s jurisdiction over him and the subject matter  
4 of this action; consented to entry of this Judgment of Permanent Injunction And  
5 other Relief (“Judgment”) without admitting or denying the allegations of the  
6 Complaint (except as to jurisdiction); waived findings of fact and conclusions of  
7 law; and waived any right to appeal from this Judgment:

8 **I.**

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

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

25 **II.**

26 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED  
27 that Driver and his agents, servants, employees, attorneys, and all persons in active  
28 concert or participation with them who receive actual notice of this Judgment by

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

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

### 14 III.

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

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

1 transportation, any such security for the purpose of sale or for  
2 delivery after sale; or

- 3 (c) Making use of any means or instruments of transportation or  
4 communication in interstate commerce or of the mails to offer  
5 to sell or offer to buy through the use or medium of any  
6 prospectus or otherwise any security, unless a registration  
7 statement has been filed with the Commission as to such  
8 security, or while the registration statement is the subject of a  
9 refusal order or stop order or (prior to the effective date of the  
10 registration statement) any public proceeding or examination  
11 under Section 8 of the Securities Act, 15 U.S.C. § 77h.

12 **IV.**

13 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Driver  
14 and his agents, servants, employees, attorneys, and all persons in active concert or  
15 participation with any of them who receive actual notice of this Judgment by  
16 personal service or otherwise are permanently restrained and enjoined from  
17 violating, directly or indirectly, Section 15(a) of the Exchange Act, 15 U.S.C.  
18 § 78o(a), by making use of the mails or any means or instrumentality of interstate  
19 commerce to effect any transaction in, or to induce or attempt to induce the  
20 purchase or sale of, any security, without being registered as a broker or dealer in  
21 accordance with Section 15(b) of the Exchange Act, 15 U.S.C. § 78o(a).

22 **VI.**

23 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Driver  
24 shall pay disgorgement of ill-gotten gains, prejudgment interest thereon, and a civil  
25 penalty pursuant to Section 20(d) of the Securities Act and 15 U.S.C. § 77t(d),  
26 Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3). The Court shall  
27 determine the amounts of the disgorgement and civil penalty upon motion of the  
28 Commission. Prejudgment interest shall be calculated from June 30, 2008, based

1 on the rate of interest equal to the weekly average one year constant maturity  
2 Treasury yield, as published by the Board of Governors of the Federal Reserve  
3 System, in accordance with 28 U.S.C. § 1961.

4 **VII.**

5 In connection with the Commission’s motion(s) for disgorgement and/or  
6 civil penalties and at any hearing held on such motion: (a) Driver will be precluded  
7 from arguing that he did not violate the federal securities laws as alleged in the  
8 Complaint; (b) Driver may not challenge the validity of the Consent or this  
9 Judgment; (c) solely for the purposes of such motion, the allegations of the  
10 Complaint shall be accepted as and deemed true by the Court; and (d) the Court  
11 may determine the issues raised in the motion on the basis of affidavits,  
12 declarations, excerpts of sworn deposition or investigative testimony, and  
13 documentary evidence, without regard to the standards for summary judgment  
14 contained in Rule 56(c) of the Federal Rules of Civil Procedure. In connection  
15 with the Commission’s motion for disgorgement and/or civil penalties, the parties  
16 may take discovery, including discovery from appropriate non-parties.

17 **VIII.**

18 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the  
19 Consent is incorporated herein with the same force and effect as if fully set forth  
20 herein, and that Driver shall comply with all of the undertakings and agreements  
21 set forth therein.

22 **IX.**

23 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this  
24 Court shall retain jurisdiction of this matter for the purposes of enforcing the terms  
25 of this Judgment.

26 ///

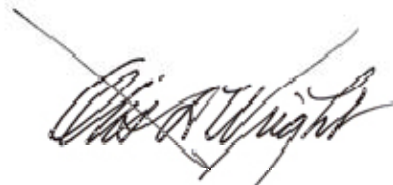
27 ///

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**X.**

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



Dated: December 14, 2009

---

**HONORABLE OTIS D. WRIGHT  
UNITED STATES DISTRICT JUDGE**