

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

MITCHELL C. KAHN and  
PAUL VAN EYL,

Defendants.

No. 99 C 6343

Judge John A. Nordberg

**FINAL JUDGMENT AS TO DEFENDANT MITCHELL C. KAHN**

The United States Securities and Exchange Commission (“the Commission” or “Plaintiff”) having filed a Complaint and Motion for Summary Judgment against Defendant Mitchell C. Kahn (“Kahn” or “Defendant”); the Court having granted summary judgment in favor of the Commission on its claims that Kahn violated Section 10(b) of the Securities and Exchange Act of 1934 (“Exchange Act”) and Rules 10b-5 and 13b2-1 thereunder and that, as a controlling person of First Merchants Acceptance Corp., Kahn was liable for First Merchants Acceptance Corp.’s violations of Sections 13(a) and 13(b)(2) of the Exchange Act and Rules 12b-20, 13a-1 and 13a-11 thereunder on May 30, 2002; the Court having entered a Judgment of Permanent Injunction and Other Relief against Defendant on December 8, 2003; Defendant having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; and consented to entry of this Final Judgment; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Kahn and those persons in active concert or participation with him who receive actual notice of this Final Judgment, by personal service or otherwise, and each of them be and are permanently restrained and enjoined from, directly or indirectly, in the purchase or sale of any security, by 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 statement of a material fact or omitting to state a material fact necessary in order to make a statement made, in the light of the circumstances under which it was made, not misleading; or
- (c) engaging in any act, practice, or course of business that 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.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Kahn and those persons in active concert or participation with him who receive actual notice of this Final Judgment, by personal service or otherwise, and each of them, be and are hereby permanently restrained and enjoined from, directly or indirectly, as a principal or as an aider and abettor, falsifying or causing to be falsified, any book, record, or

account subject to Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)] and Rule 13b2-1 [17 C.F.R. § 240.13b2-1] thereunder.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Kahn and those persons in active concert or participation with him who receive actual notice of this Final Judgment, by personal service or otherwise, and each of them, be and are hereby permanently restrained and enjoined from, directly or indirectly, failing or causing a failure to file with the Commission, on behalf of any issuer of a security registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l], in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate for the proper protection of investors and to ensure fair dealing in the security, such quarterly reports as the Commission may prescribe, and such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading in violation of Section 13(a) [15 U.S.C. § 78m(a)] of the Exchange Act and Rules 12b-20 [17 C.F.R. § 240.12b-20], 13a-1 [17 C.F.R. § 240.13a-1] and 13a-11 [17 C.F.R. § 240.13a-11] thereunder.

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], Kahn is prohibited from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Commission's claims that Kahn violated Section 13(b)(5) of the Exchange Act and Rule 13b2-2 thereunder and the Commission's claims for disgorgement, prejudgment interest and a civil penalty against Kahn are dismissed with prejudice.

VI.

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

VII.

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

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UNITED STATES DISTRICT JUDGE

Dated: \_\_\_\_\_