



2. The Commission, Defendants and Relief Defendants have determined to settle this matter, the terms of which are set forth in the Consent Order of Permanent Injunction and Equitable Relief Against Defendants, which is being entered contemporaneously with this order.

3. The Commission agrees not to seek further monetary relief against Relief Defendants since any relief sought from the Relief Defendants will be satisfied pursuant to payments received from Defendants in connection with the Consent Order of Permanent Injunction Against Defendants.

4. Relief Defendants agree to waive any claims that Relief Defendants may have against the Commission under the Equal Access to Justice Act ("EAJA"), 5 U.S.C. § 504 (2006) and 28 U.S.C. § 2412 (2006), and/or Part 148 of the Regulations, 17 C.F.R. § 148.1, *et seq.*, relating to or arising from, this action and any right under EAJA to seek costs, fees and other expenses relating to, or arising from, this action. Relief Defendants also agree to waive any claims that Relief Defendants may have against the Commission under the Small Business Regulatory Enforcement Fairness Act ("SBREFA"), Pub. L. No. 104-121, §§ 221-223, 110 Stat. 862-63 (1996), as amended by Pub. L. No. 110-28, 121 Stat. 112 (2007), relating to, or arising from, this action. Relief Defendants also agree to waive any and all rights of appeal in this action.

Accordingly, it is hereby **ORDERED** that:

1. The Statutory Restraining Order and Consent Order of Preliminary Injunction are vacated.

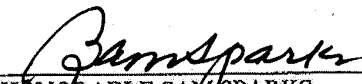
2. Relief Defendants have waived any claims or rights that they may have had against the Commission under the EAJA relating to or arising from this action, and any right under EAJA to seek costs, fees and other expenses relating to, or arising from, this action. Relief

Defendants also agree to waive any claims that Relief Defendants may have against the Commission under SBREFA, relating to, or arising from, this action. Relief Defendants have also waived any and all rights of appeal in this action.

3. As this matter has been resolved by the parties, Relief Defendants are hereby dismissed with prejudice, with each party to bear their own fees and costs.

**ORDERED AND ADJUDGED.**

**DONE AND ORDERED** at Austin, Texas, this 8<sup>th</sup> day of December, 2010.

  
HONORABLE SAM SPARKS  
United States District Judge

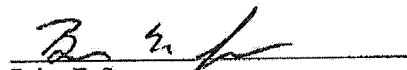
CONSENTED AND APPROVED BY:

  
Patrick J. Dailey, Trustee  
Dailey Family Limited Partnership

Date: 9/2/2010

  
Suzi Dailey

Date: 9/3/2010

  
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Date: 9/8/10

Case No: 1:09cv497

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Date: 12/7/10