

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
: UNITED STATES OF AMERICA, :
: :
: Plaintiff, :
: :
: - v - :
: :
: STEINHARDT MANAGEMENT COMPANY, : 94 Civ. 9044 (RPP)
: INC.; and CAXTON CORPORATION, :
: :
: Defendants, :
: :
: -and- :
: :
: \$12,500,000 THAT IS THE PROPERTY :
: OF STEINHARDT MANAGEMENT :
: COMPANY, INC.; :
: :
: Steinhardt Management :
: Company, Inc., :
: Real Party in Interest :
: :
: -and- :
: :
: \$12,500,000 THAT IS THE PROPERTY :
: OF CAXTON CORPORATION, :
: :
: Caxton Corporation, :
: Real Party in Interest. :
: :
-----X

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made between the UNITED STATES OF AMERICA ("Plaintiff") and STEINHARDT MANAGEMENT COMPANY, INC. ("SMC").

1. This Agreement is made to resolve and forever to settle SMC's liability under the antitrust laws for certain conduct to be alleged in a Complaint to be filed by the United States pursuant to this Agreement. Upon the fulfillment of the conditions set forth in this Agreement, the releases described

herein shall be effective.

2. On the date of execution of this Agreement,

(a) Plaintiff shall file a civil Complaint alleging a violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, by SMC and others in connection with the acquisition and trading of certain United States Treasury notes;

(b) Plaintiff shall file a Final Judgment in the form attached as Exhibit A, that, if entered by the Court, would resolve and settle the allegations of the Complaint filed pursuant to subparagraph (a), above;

(c) Plaintiff and SMC shall execute and file a Stipulation and Order in the form attached as Exhibit B, stipulating to the entry of a Final Judgment in the form attached as Exhibit A.

3. In consideration of the sum of money to be forfeited by SMC pursuant to the Final Judgment and other of the agreements set forth herein, upon entry of the Final Judgment in the form attached as Exhibit A, or in such other form as the Court may order requiring payment of the civil forfeiture specified in paragraph 6(a), Plaintiff releases SMC and its present and former officers, employees, directors and subsidiaries, and any funds or accounts managed by SMC, from any civil liability or claims whatsoever or any criminal liability for any federal offense (a) which was committed prior to the date of this Agreement and arose out of the purchase, sale, financing or trading of the two-year United States Treasury notes issued in April 1991 or the two-year

United States Treasury notes issued in May 1991 (together, "Specified Notes") or (b) which arose out of any conduct known to the Department of Justice or the Securities and Exchange Commission ("SEC") related to any investigation by the Department of Justice or the SEC into the purchase, sale, financing or trading of the Specified Notes, or into any efforts to interfere with, obstruct, mislead or subvert any such investigation; provided, however, that nothing in this Agreement shall apply to violations of the federal tax laws, Title 26, United States Code.

4. Plaintiff and SMC recognize that the Court may enter a Final Judgment only after the parties have complied with the provisions of the Tunney Act, 15 U.S.C. § 16(b) through (g). The parties shall use their best efforts to comply with the procedures of the Tunney Act to ensure that a Final Judgment in the form attached as Exhibit A is entered by the Court at the earliest practicable date. If the Court should require modification to the Final Judgment before entering it, SMC shall not unreasonably withhold its agreement to such modification.

5. The parties recognize that this Agreement is being made in conjunction with the Consent and Undertakings of Defendants Steinhardt Management Company, Inc. that SMC has entered into with the SEC (the "SEC Consent") in the form attached as Exhibit C, and that, upon execution of the SEC Consent, the SEC will file against SMC a civil complaint alleging violations of the securities laws, under the caption Securities and Exchange

Commission v. Steinhardt Management Company, Inc. and Caxton Corporation (the "Securities Case").

6. Pursuant to this Agreement, the SEC Consent, and the Final Judgment of Permanent Injunction and Other Relief as to Defendants Steinhardt Management Company, Inc. in the Securities Case (the "Securities Case Final Judgment") in the form attached as Exhibit D, SMC shall, at the times specified in paragraph 12 and as provided in the Securities Case final judgment, pay the sum of \$40 million as follows:

(a) \$19 million shall be paid to the United States of America. Of this amount, \$12.5 million shall constitute a civil forfeiture pursuant to the Sherman Antitrust Act, 15 U.S.C. § 6, and shall be paid to the Department of Justice Asset Forfeiture Fund; the remaining \$6.5 million shall constitute a civil penalty pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), and shall be paid to the Treasurer of the United States;

(b) \$21 million shall be paid into a disgorgement fund established by court order in the Securities Case, upon terms established by the Securities Case Final Judgment, as entered by the Court. This disgorgement fund shall be administered and used as set forth in the Securities Case Final Judgment.

Under no circumstances shall SMC be entitled to a refund of any monies paid pursuant to this Agreement; provided that the foregoing shall not preclude reimbursement of SMC from the

disgorgement fund in accordance with the procedures governing such fund, in respect of certain third-party claims paid directly by SMC.

7. Should the Court for any reason not order all or any part of the amount specified in paragraph 6(a) to be forfeited to the United States, the difference between the amount ordered forfeited by the Court in the captioned case and the amount specified to be forfeited to the United States by paragraph 6(a), shall be paid to the Treasurer of the United States pursuant to the Final Judgment in the Securities Case under Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3) ("Additional Civil Penalty"). Upon the payment of the Additional Civil Penalty, the releases described in paragraph 3 shall be effective.

8. SMC understands that the United States has not waived the right of any federal agency, with respect to SMC or any other person: (a) to revoke or suspend any license, certificate, registration or other form of permission issued by such agency; (b) to impose any penalty or to take any form of punitive or disciplinary action; or (c) to debar, suspend, disqualify, or otherwise restrict or prohibit certain transactions or other dealings with the United States or with any of its agencies or departments.

9. SMC hereby waives any right it might have as a result of this Agreement or any settlement arrangements contemplated hereby under the United States Supreme Court's decision in United

States v. Halper, 490 U.S. 435 (1989), or in respect of the subject matter of that case or under any other existing or future decision relating to that subject matter.

10. SMC neither admits nor denies any of the factual allegations pertaining to the matters described in the Complaint to be filed pursuant to paragraph 2, nor does SMC either admit or deny any legal liability arising therefrom. Nothing in this Agreement or in the Final Judgment or any Order contemplated hereby shall constitute a finding of fact or conclusion of law or otherwise provide any basis for establishing such liability.

11. SMC shall pay the civil penalty imposed by the Court in the Securities Case and contribute the funds to establish the disgorgement fund as specified in the Securities Case Final Judgment (collectively, the "Initial Payment"). Pursuant to this Agreement and the Tunney Act, 15 U.S.C. §§ 16(b) through (g), the forfeiture provided for in the Final Judgment shall not be paid until five (5) business days after SMC receives notice of entry of the Final Judgment, or such other order as represents a final disposition of the captioned case. At that time, in addition to the \$12.5 million payment specified in the Final Judgment ("Deferred Payment"), SMC shall forfeit an "Additional Amount," as defined below. The term "Additional Amount" shall mean an amount representing interest on the Deferred Payment, computed on the basis of a 365 day year, at a rate per annum of 5 3/4%, from and including the date of the Initial Payment, but excluding the date on which the Deferred Payment is made. To the extent the

Court does not impose any portion of the Deferred Payment or the Additional Amount, such amounts shall nonetheless be paid to the United States pursuant to paragraph 7 at the time specified herein.

12. This Agreement, and all the terms and provisions hereof, shall be binding on the parties hereto and their respective successors and assigns, and shall inure only to the benefit of the parties hereto, and other persons specifically released pursuant to paragraph 3, and their respective successors and assigns, and no other person shall be entitled to any benefits hereunder.

13. No additional understandings, promises, agreements and/or conditions have been entered into by the parties hereto with respect to the matters set forth in this Agreement other than those set forth herein and none will be entered into unless in writing and signed by all parties.

14. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which when taken together shall constitute but one agreement.

15. This Agreement shall be deemed to have been fully executed and delivered when both the United States, on the one hand, and SMC, on the other, have received counterparts hereof executed on behalf of the other party by each of the signatories for such other party set forth on the signature pages hereof.

Agreed to:

UNITED STATES OF AMERICA

John F. Greaney
Chief, Computers and Finance Section
Antitrust Division
Department of Justice

December ____, 1994

STEINHARDT MANAGEMENT COMPANY, INC.

Michael Steinhardt
Chairman
Steinhardt Management Company, Inc.

December ____, 1994