

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES COURTS
SOUTHERN DISTRICT OF TEXAS
FILED

MAR 27 1997

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

JOHN C. ROCKETT,
LEONARD WAYNE and
ANTHONY J. LEO,

Defendants.

MICHAEL N. MILBY, Clerk of Court

CIVIL ACTION NO.

H-97-0981

COMPLAINT

Plaintiff Securities and Exchange Commission, for its claim,
alleges that:

SUMMARY

1. During the period from May 1994 to and including August 1995, defendants John C. Rockett, Leonard Wayne and Anthony J. Leo raised approximately \$2.9 million from at least 140 investors in 31 states, from fraudulent sales of unregistered investment contract securities. Rockett, Wayne and Leo raised money through Pro-Tex Pipe and Tubing Corporation ("Pro-Tex") to purchase oil field equipment and pipe; Pro-Tex was to resell these materials and pay investors a portion of the transaction profits. Investors were guaranteed returns of up to 20% per annum, with complete security as to their invested principal, and told that there were "no risks" associated with an investment in Pro-Tex's business. In fact, Rockett and Wayne operated an undisclosed "Ponzi" scheme, whereby monies contributed by new investors were

paid as purported "profits" to previous investors. Rockett and Wayne misappropriated investors' funds, and Wayne and Leo received undisclosed commissions for their efforts in selling Pro-Tex securities.

2. By engaging in such conduct, as detailed in this Complaint, these defendants violated provisions of the federal securities laws as follows:

- a. Rockett, Wayne and Leo have violated Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77(e)(a), 77(e)(c) and 77q(a)] and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)], and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5]; and
- b. Wayne and Leo have separately violated Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)].

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to Sections 20(d) and 22(a) of the Securities Act [15 U.S.C §§ 77t(d) and 77v(a)] and Sections 21(d), 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78t(d), 78t(e) and 78aa].

4. Certain of the acts, practices, courses of business, and transactions constituting violations of the Securities Act and the Exchange Act as alleged in this Complaint, have occurred within the Southern District of Texas. Furthermore, from April 1994 through March 1995, Pro-Tex maintained its principal office in Houston, Texas.

PARTIES

5. The Commission brings this action pursuant to authority conferred on it by Sections 20(b) and 20(d) of the Securities Act [15 U.S.C. §§ 77t(b) and 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)].

6. Rockett, a resident of California, was President of Pro-Tex and responsible for its operations. At all times relevant to this matter, Rockett controlled and directed the activities of Pro-Tex, including directing and participating in the preparation of the written sales materials used in the offer and sale of securities to investors.

7. Wayne, a resident of California, was the Vice-President of Pro-Tex and raised money for Pro-Tex and received commissions as his compensation. Wayne was not registered as a broker or dealer with the Commission or with any state at any of the times alleged herein.

8. Leo, a resident of Yorba Linda, California, raised money for Pro-Tex and received commissions as his compensation. Leo was not registered as a broker or dealer with the Commission or with any state at any of the times alleged herein.

RELATED PARTY

9. Pro-Tex began its business operations in April 1994, and incorporated in Louisiana during March 1995.

STATEMENT OF FACTS AND ALLEGATIONS

RELEVANT TO ALL COUNTS

10. From at least May 1994 through August 1995, defendants Rockett, Wayne and Leo, directly and indirectly, offered, sold, and delivered after sale securities, in the form of investment contracts, raising at least \$2.9 million from at least 140 investors residing in 31 states. Investors were solicited with offering material and oral presentations that were delivered or made through the use of the means and instrumentalities of interstate commerce, including telephone calls and overnight courier deliveries, and the U.S. Mails. The investment contracts, which are participations in a venture to purchase pipe and other oil field-related equipment to resell for a profit, have not been and are not registered with the Commission.

11. Defendants offered and sold these securities by means of statements of material fact, which were and are false and misleading; and by omissions of material fact necessary to make the statements made not misleading, as follows:

a. Rockett and Wayne made false and misleading statements of material fact, including:

i) that all investment funds would be used to purchase oil field pipe and equipment;

ii) that there were "no risks" associated with the investments;

iii) that investors would receive a return on investment between 16.75 and 20 percent annually, depending upon the offering;

iv) that the return on investment was guaranteed and would be paid quarterly; and

v) that investors were entitled to receive their principal investments back at the end of either a one-year or four-year term, depending on the investment program.

b. Rockett and Wayne omitted to disclose material facts necessary to make the statements made not misleading, including:

i) that the source of putative "profits" paid to investors was the contributions of other investors, rather than from profits earned by Pro-Tex through the purchase and resale of oil field pipe and equipment;

ii) that Rockett and Wayne were operating a "Ponzi" scheme, which would necessarily result in substantial losses to certain, later investors;

iii) that substantial amounts of investor monies were spent for unauthorized expenditures including: commissions for capital raising activities, funding an unrelated business, and by defendants Rockett and Wayne for personal purposes;

iv) that orders of prohibition had been entered against Pro-Tex, by securities regulators in Illinois

and Wisconsin (Wisconsin: In the Matter of Pro-Tex Corporation, Robert J. Day, Leonard Wayne and Patrick Sullivan, File No. X-94073(E), November 14, 1994; Illinois: In the Matter of Pro-Tex Corporation and John C. Rockett, Case No. 9500082, April 17, 1995), and that Wayne was a subject of the Wisconsin order, and Rockett was a subject of the Illinois order;

v) that Leo had been subject of administrative prohibition orders in Kansas (Gold Star Petroleum and Anthony Joseph Leo, a/k/a Tony Leo, Case No. 89E022/88-1375, January 27, 1989), Wisconsin (Gold Star Petroleum, Inc., Tony J. Leo and Dan Riley, Case No. X88100(E), June 27, 1989), Minnesota (M.A.T. Oil and Gas Exploration, Inc., a Pennsylvania corporation, including Mark A. Thompson, President; Anthony & Associates and Tony Leo, Case No. SE8903935, October 16, 1989), and Iowa (Anthony Leo, Michele Passino and Gold Star Petroleum, Inc. Case No. C91-02-333, February 20, 1991); and

vi) that Rockett had been convicted of securities fraud by the State of California in 1990, and was sentenced to prison for sixteen months followed by three years probation (The People of the State of California v. John Colmant Rockett, Municipal Court, Central Judicial District, County of Orange; Felony Complaint Criminal No. 90CF02167, October 25, 1990);

that Rockett had been convicted of securities fraud by the State of Kansas in 1991 (State of Kansas v. John C. Rockett, 10th Judicial District Court of Johnson County, State of Kansas; Cause No. K62179, April 18, 1991); and that Rockett had been permanently enjoined from violations of the securities registration and antifraud provisions of the California Securities Act in 1992 (The People of the State of California v. John Colmant Rockett d/b/a Liberty National Corporation and National Capital Securities Corporation, In the Superior Court, Central Judicial District, County of Orange, State of California; Case No. 614545, May 29, 1992).

c. Wayne omitted to disclose material facts necessary to make the statements made not misleading, including:

i) that he received substantial sales commissions for raising capital for Pro-Tex; and

ii) that he and Rockett were operating a "Ponzi" scheme, which would necessarily result in substantial losses to certain, later investors.

d. Leo omitted to disclose material facts necessary to make the statements made not misleading, including:

i) that he received substantial sales commissions for raising capital for Pro-Tex;

ii) that Rockett and Wayne were operating a "Ponzi" scheme, which would necessarily result in

substantial losses to certain, later investors;
and

iii) that, prior to his association with Pro-Tex,
he had been ordered by at least four states to
cease and desist selling unregistered securities
unrelated to Pro-Tex.

FIRST CLAIM

FRAUD IN CONNECTION WITH THE PURCHASE AND SALE OF SECURITIES

**Violations 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**

12. The allegations of paragraphs 1 through 11 of this
Complaint are realleged and incorporated herein by reference as
if set forth here verbatim.

13. Defendants Rockett, Wayne and Leo, singly, in concert,
and with others, directly and indirectly, in connection with the
purchase and sale of securities, by use of the means and
instrumentalities of interstate commerce and by use of the mails
have:

(a) employed devices, schemes and artifices to
defraud;

(b) made untrue statements of material facts and
omitted to state material facts necessary in order to make
the statements made, in light of the circumstances under
which they were made, not misleading; and

(c) engaged in acts, practices and courses of business which operate as a fraud and deceit upon purchasers, prospective purchasers and other persons.

14. As a part of and in furtherance of the scheme, defendants, directly and indirectly, prepared, disseminated or used written offering documents, promotional materials, investor correspondence, and oral presentations, which contained untrue statements of material facts and misrepresentations of material facts and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made not misleading, including but not limited to those set forth in paragraph 11 above.

15. As a part of and in furtherance of the scheme, defendants omitted to state facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, the omissions set forth in paragraph 11 above.

16. Defendants Rockett, Wayne and Leo have intentionally, knowingly, and/or recklessly engaged in the devices, schemes, artifices to defraud, making of untrue statements and omissions, acts, practices and courses of business described in this cause of action. By reason of the foregoing, these defendants have violated and, unless enjoined, will continue to violate the provisions of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

SECOND CLAIM

FRAUD IN THE OFFER AND SALE OF SECURITIES

**Violations of Section 17(a) of the
Securities Act [15 U.S.C. § 77q(a)]**

17. The allegations of Paragraphs 1 through 16 of this Complaint are realleged and incorporated herein by reference, as if set forth here verbatim.

18. Defendants, Rockett, Wayne and Leo, singly, in concert, and with others, directly and indirectly, in the offer and sale of securities, by use of the means and instruments of transportation and communication in interstate commerce and by use of the mails, have:

- (a) employed devices, schemes or artifices to defraud;
- (b) obtained money or property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and
- (c) engaged in transactions, practices or courses of business which operate or would operate as a fraud or deceit.

19. As part of and in furtherance of this scheme, defendants, directly and indirectly, prepared, disseminated or used written offering documents, promotional materials, investor correspondence, and oral presentations, which contained untrue statements of material fact and which omitted to state material facts necessary in order to make the statements made, in light of

COMPLAINT/ROCKETT, ET AL.

PAGE 10

the circumstances under which they were made, not misleading, including, but not limited to, those statements and omissions set forth in paragraph 11 above.

20. By reason of the foregoing, defendants Rockett, Wayne and Leo have violated, and unless enjoined, will continue to violate Sections 17(a)(2) and (3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and (3)]. Furthermore, defendants have intentionally, knowingly and/or recklessly engaged in the acts and practices described in this claim, so they have violated, and, unless enjoined, will continue to violate Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

THIRD CLAIM

OFFERS AND SALES OF UNREGISTERED SECURITIES

Violations of Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. 77 (e)(a) and 77(e)(c)]

21. The allegations of paragraph 1 through 20 of the Complaint herein are realleged and incorporated herein by reference as if set forth here verbatim.

22. Defendants Rockett, Wayne and Leo, singly, in concert, and with others have, directly and indirectly:

(a) made use of the means and instruments of transportation and communication in interstate commerce and of the mails to sell securities through the use of written contracts, offering documents, and otherwise;

(b) carried and caused to be carried such securities through the mails and in interstate commerce by means and

instruments of transportation, for the purpose of sale and for delivery after sale; and

(c) made use of the means or instruments of transportation and communication in interstate commerce and of the mails to offer to sell such securities.

Upon information and belief, these defendants are currently engaged in such activities, and, unless all are enjoined, will continue to engage in similar activities.

23. No registration statements have been filed with the Commission or are otherwise in effect with respect to any of the securities offered and sold by defendants.

24. By reason of the foregoing, defendants Rockett, Wayne and Leo have violated and, unless enjoined, will continue to violate Section 5(a) and 5(c) of the Securities Act [15.U.S.C. 77(e)(a) and 77(e)(c)].

FOURTH CLAIM

UNREGISTERED BROKER-DEALER

Violations of Section 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)]

25. The allegations of paragraphs 1 through 24, above, are realleged and incorporated herein by reference, as if set forth here verbatim.

26. At the times alleged in this Complaint, defendants Wayne and Leo have been in the business of effecting transactions in securities for the accounts of others.

27. Defendants Wayne and Leo have made use of the mails and of the means and instrumentalities of interstate commerce to

effect transactions in, and to induce or attempt to induce the purchase of, the securities described herein.

28. At the times alleged in this Complaint, neither Wayne nor Leo was registered with the Commission as a broker or dealer, in accordance with Section 15(b) of the Exchange Act [15 U.S.C. § 78o(b)].

29. By reason of the foregoing, defendants Wayne and Leo and have violated and, unless enjoined, will continue to violate Section 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)].

PRAYER FOR RELIEF

WHEREFORE, the COMMISSION respectfully prays that this Court:

I.

Permanently enjoin defendants Rockett, Wayne and Leo from violating Sections 5(a), 5(c) and 17(a) of the Securities Act and Section 10(b) of the Exchange Act, and Rule 10b-5 thereunder.

II.

Permanently enjoin defendants Wayne and Leo from violating Section 15(a) of the Exchange Act.

III.

Order defendants Rockett, Wayne and Leo to prepare and file with the Court and serve on the Commission a sworn accounting detailing all funds or other assets received from Pro-Tex, or its investors.

IV.

Order defendants Rockett, Wayne and Leo to disgorge any monies or other assets received from Pro-Tex or its investors and any income or profit therefrom, including prejudgment interest.

V.

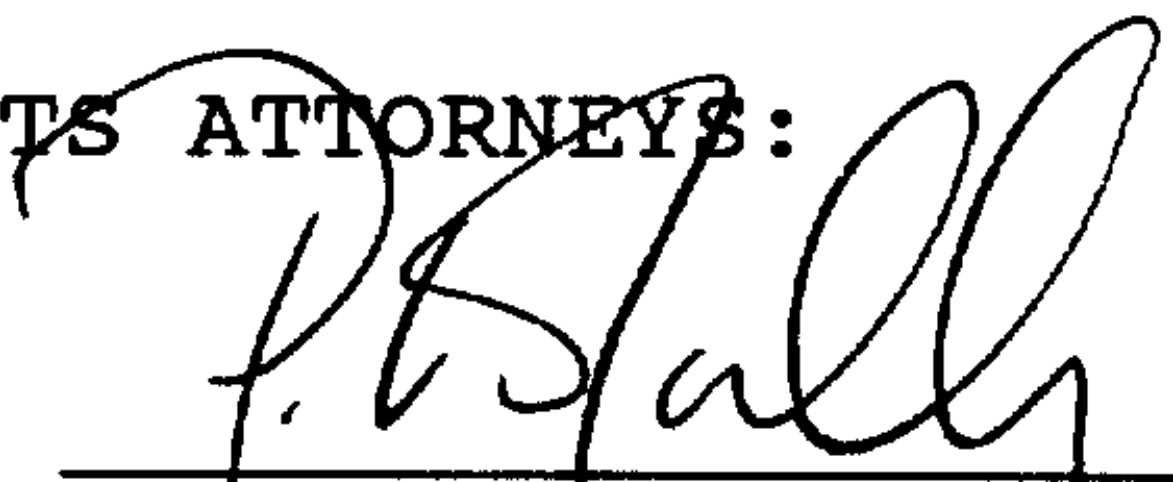
Order defendants Rockett, Wayne and Leo to pay civil penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 79u(d)].

VI.

Order such further relief as this Court may deem just and proper.

FOR THE COMMISSION, BY ITS ATTORNEYS:

Dated: 3/26/97.



PHILLIP W. OFFILL, JR.
(attorney-in-charge)
SD/TX Bar No. 14985
KAREN L. COOK
Texas Bar No. 12696860
ROSEMARY K. BEHAN
Texas Bar No. 02048050

Attorneys for Plaintiff
SECURITIES & EXCHANGE COMMISSION
801 Cherry Street, Suite 1900
Fort Worth, Texas 76102
Voice: (817) 978-3821/-6450
Facsimile: (817) 978-2700