UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. Thomas Gregory Cook James H. Malbaff Malbaff & Cook Lytle E. Foglesong Defendants.	Civil Action No. 5: 01CV00104 Chief Judge Samuel G. Wilson

FINAL JUDGMENT AS TO THOMAS GREGORY COOK

Defendant Thomas Gregory Cook has entered a general appearance herein; admitted the jurisdiction of this Court over him and over the subject matter of this action; withdrawn his answer to the complaint; waived the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure; and without admitting or denying the allegations of the complaint, except as to jurisdiction, which he admits, consented to the entry of this Final Judgment. It further appearing that this Court has jurisdiction over Cook and the subject matter hereof, and the Court being fully advised in the premises and there being no just cause for delay, **it is hereby ordered, adjudged and decreed** pursuant to Rule 54(b) of the Federal Rules of Civil Procedure as follows:

I.

Cook, his agents, servants, employees, and attorneys-in-fact, successors, and assigns and all those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, be and hereby are permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)], in the offer or sale of any securities by use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly:

A. to employ any device, scheme, or artifice to defraud; or

B. to obtain money or property by means of an untrue statement of a material fact or omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

C. to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

II.

Cook, his agents, servants, employees, attorneys-in-fact, successors, and assigns and all those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, be and they hereby are permanently restrained and enjoined from violating Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] promulgated thereunder, directly or indirectly, by the use of any means or

instrumentality of interstate commerce, or of the mails, or any facility of any national securities exchange:

A. to employ any device, scheme, or artifice to defraud; or

B. to make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

C. to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.

III.

Cook, his agents, servants, employees, attorneys-in-fact, successors, and assigns and all those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, be and they hereby are permanently restrained and enjoined from violating Section 15(a) of the Exchange Act [15 U.S.C. § 78*o*(a)] by, directly or indirectly effecting securities transactions for the account of others or engaging in business as a dealer without being registered as a broker-dealer or being associated with a registered broker-dealer for purposes of those transactions or that business.

IV.

Cook shall pay jointly and severally disgorgement in the amount of $825,000 (which represents the gains Cook and the other defendants named in the complaint received from the conduct alleged in the complaint) plus pre-judgment interest thereon in the amount of $451,723; provided, however, that the rescission payments made pursuant to the

Settlement Order in the action styled, Commonwealth of Virginia ex rel. State Corporation Commission v. James Harold Malbaff, and Thomas Gregory Cook, Case Nos. SEC990073 and SEC990074 ("Virginia Settlement Order") a copy of which is attached to Cook's Consent filed with this Court, and in accordance with the payment plan that Cook has submitted to the Commission staff (which is also attached to Cook's Consent filed with this Court), will be deducted from the amount of disgorgement stated above. Cook's obligation to satisfy the rescission payment, as specified in the Virginia Settlement Order and in accordance with the payment plan Cook has submitted to the Commission staff, is incorporated by reference and made part of this Final Judgment and has the same force and effect as other terms and conditions of this Final Judgment. The balance of disgorgement due from Cook and pre-judgment interest thereon after allowing for the deduction specified above is waived contingent upon the accuracy and completeness of his Statement of Financial Condition dated October 29, 2001, and supporting and supplemental documentation (dated July 17, 2002 and January 28, 2003), which he submitted to the Commission.

V.

Further, any payments made to victims eligible to receive disgorgement by other persons liable to make such payments as a result of their participation in the fraud alleged in this action will be deducted from the amount of disgorgement Cook would otherwise be required to pay under this Final Judgment.

VI.

Based upon Cook's sworn representations in his Statement of Financial Condition submitted to the Commission dated October 29, 2001, and other supporting and

supplemental documents (dated July 17, 2002 and January 28, 2003), which he submitted to the Commission, the Court is not ordering him to pay 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)]. The determination not to impose a civil penalty and to waive for Cook payment of such portion of his disgorgement and prejudgment interest obligation that is in excess of the requirements of the Virginia Settlement Order and the payment plan referenced above, is contingent upon the accuracy and completeness of his Statement of Financial Condition and the supporting and supplemental documentation he provided to the Commission. If at any time following the entry of this Final Judgment the Commission obtains information indicating that Cook's representations to the Commission concerning his assets, income, liabilities, or net worth were fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made, the Commission may, at its sole discretion and without prior notice to Cook, petition this Court for an order requiring Cook to pay the unpaid portion of the disgorgement, pre-judgment and post-judgment interest thereon, and the maximum civil penalty allowable under the law. In connection with any such petition, the only contestable issue shall be whether the financial information provided by Cook was fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made. In its petition, the Commission may move this Court to consider all available remedies, including, but not limited to, ordering Cook to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of this Final Judgment. The Commission may also request additional discovery. Cook may not, by way of defense to such petition: (1) challenge the validity of his Consent or the Final Judgment; (2) contest the allegations in the complaint filed by the Commission; (3) assert that disgorgement or the payment of a civil penalty should not be ordered; (4) contest the amount of disgorgement and interest; (5) contest the imposition of the maximum civil penalty allowable under the law; or (6) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

VII.

The annexed Consent of Thomas Gregory Cook is hereby incorporated herein with the same force and effect as if fully set forth herein.

VIII.

This Court shall retain jurisdiction of this action, pursuant to Rule 65(d) of the Federal Rules of Civil Procedure, for all purposes, including the implementation and enforcement of this Final Judgment.

IX.

There being no just cause for delay, the Clerk of the Court is hereby directed, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, to enter this Final Judgment forthwith.

SO ORDERED, this 27th day of Oct, 2003.

CHIEF UNITED STATES DISTRICT JUDGE