

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DOCKETED

SECURITIES AND EXCHANGE)
COMMISSION,)
Plaintiff)
v.)
JEREMIAH J. HEGARTY AND)
MICHAEL HEGARTY,)
Defendants)

CIVIL ACTION NO. 96-12367-RCL

FINAL JUDGMENT

For the reasons set forth in the foregoing memorandum of findings of fact and conclusions of law, I order that judgment enter as follows.

I.

It is hereby ordered, adjudged and decreed that defendants Jeremiah J. Hegarty (“Jeremiah Hegarty”) and Michael P. Hegarty (“Michael Hegarty”), their respective agents, servants, employees, attorneys, and all persons in active concert or participation with Jeremiah Hegarty and Michael Hegarty (or either of them), who receive actual notice of this final judgment by personal service or otherwise, hereby are permanently restrained and enjoined from violating section 17(a) of the Securities Act of 1933 [15 U.S.C. § 77q(a)] directly or indirectly, through the use of any means or instruments of transportation or communication in interstate commerce, or by the use of the mails, in the offer or sale of any securities:

- (a) by employing any device, scheme or artifice to defraud;
- (b) by obtaining any money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make

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the statements made, in light of the circumstances under which they were made, not misleading; or

- (c) by engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon any purchaser.

II.

It is further ordered, adjudged and decreed that defendants Jeremiah Hegarty and Michael Hegarty, their respective agents, servants, employees, attorneys, and all persons in active concert or participation with Jeremiah Hegarty and Michael Hegarty (or either of them), who receive actual notice of this final judgment by personal service or otherwise, hereby are permanently restrained and enjoined from violating section 10(b) of the Exchange Act of 1934 [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5] by directly or indirectly, using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange:

- (1) to employ any device, scheme or artifice to defraud;
- (2) 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
- (3) 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.

It is further ordered, adjudged and decreed that defendants Jeremiah Hegarty and Michael

Hegarty, their respective agents, servants, employees, attorneys and all persons in active concert or participation with Jeremiah Hegarty and Michael Hegarty (or either of them), who receive actual notice of this final judgment by personal service or otherwise, hereby are permanently restrained and enjoined from violating sections 206(1) and 206(2) of the Investment Advisers Act of 1940 [15 U.S.C. §§ 80b-6(1) and 80b-6(2)] by, directly or indirectly, using the means or instrumentality of interstate commerce:

- (1) to employ any device, scheme, or artifice to defraud any client or prospective client; or
- (2) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

IV.

It is further ordered, adjudged and decreed that defendant Jeremiah Hegarty and his agents, employees, servants, and attorneys, and all persons in active concert or participation with Jeremiah Hegarty, who receive actual notice of this final judgment by personal service or otherwise, hereby are permanently restrained and enjoined from violating section 206(4) of the Investment Advisers Act [15 U.S.C. § 80b-6(4)] and Rule 206(4)-1(a)(5) thereunder [17 C.F.R. § 275.206(4)-1(a)(5)] by directly or indirectly, publishing, circulating or distributing advertisements that contain untrue statements of material fact, or are otherwise false or misleading.

V.

It is further ordered, adjudged and decreed that defendant Jeremiah Hegarty, and his officers, agents, servants, employees, and attorneys, and all persons in active concert or

participation with Jeremiah Hegarty, who receive actual notice of this final judgment by personal service or otherwise, hereby are permanently restrained and enjoined from violating Section 205 of the Investment Advisers Act [15 U.S.C. § 80b-5] by entering into investment advisory contracts which provide for compensation on the basis of a share of capital gains or capital appreciation of client funds in violation of that statute, except as otherwise may be provided by statute of the United States or by regulation of the Securities and Exchange Commission.

VI.

It is further ordered, adjudged and decreed that:

- A. Defendant Michael Hegarty disgorge, to the extent of \$92,998.77, all commissions he received between October, 1992 and December, 1992 for executing trades made for or on behalf of clients of Hyannis Trading Advisors, Inc. Not later than one hundred eighty days from the date of this final judgment, Michael Hegarty shall pay to the registry of this court, by cashier's or certified check payable to "Clerk, United States District Court," the full amount of disgorgement. Such payment shall be under cover of a letter identifying the name and civil action number of this litigation and the name of the defendant. A copy of the cover letter and payment simultaneously shall be transmitted to the Securities and Exchange Commission, Boston District Office, 73 Tremont Street, Suite 600, Boston, Massachusetts, 02108, Attn: David E. Marder, Esq.
- B. At such time as funds representing disgorgement are paid to the court, defendant Michael Hegarty shall relinquish all legal and equitable right, title and interest in those funds, and no part of such funds shall be returned to Michael Hegarty, to anyone related to him by blood or marriage, or to his assigns.

C. Not later than twenty-one days from the date it receives a copy of the cover letter described in section VI(A) of this final judgment, the Securities and Exchange Commission shall submit to the court and serve upon the defendants a plan and proposal for the disposition of funds disgorged by Michael Hegarty.

D. For good cause shown on motion of any party, the manner of payment of the disgorged funds as described in section VI(A) of this final judgment, may be modified by the court.

VII.

It is further ordered, adjudged and decreed that civil monetary penalties payable to the United States Treasury under Section 20(d) of the Securities Act [15 U.S.C. § 77(t)(d)]; Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]; and Section 209(e) of the Investment Advisers Act [15 U.S.C. § 80b-9(e)] are appropriate as to the defendant Jeremiah Hegarty. Jeremiah Hegarty, therefore, shall pay such penalties in the amount of \$125,000. The monies to be paid pursuant to this section of this final judgment shall be paid to the Treasury not later than one hundred eighty days from the date of entry of this final judgment, by postal money order, certified check, bank cashier's check or bank money order, payable to the order of the United States Securities and Exchange Commission. The payment shall be transmitted to the Comptroller, Securities and Exchange Commission, 6432 General Green Way, Stop 0-3, Alexandria, Virginia, 22312, under cover of letter identifying the name and civil action number of this litigation and the name of the defendant. A copy of the cover letter and payment simultaneously shall be transmitted to the Securities and Exchange Commission, Boston District Office, 73 Tremont Street, Suite 600, Boston, Massachusetts, 02108, Attn: David E. Marder, Esq. For good cause shown on motion of any party, the manner of payment of the civil penalty

provided in this section of this final judgment may be modified by the court.

VIII.

It is further ordered, adjudged and decreed that service of this final judgment and all other papers in this action may be effected upon defendants Jeremiah Hegarty and Michael Hegarty by delivering a copy to their attorney, Arthur Tifford, Esq., 1385 Northwest 15th Street, Miami, FL, 33125 or to any other attorney entering an appearance for defendants Jeremiah Hegarty or Michael Hegarty in this action. If defendants Jeremiah Hegarty and Michael Hegarty cease to be represented by counsel, service may be effected upon them, in addition to the methods specified in Rules 4, 4.1 and 5 of the Federal Rules of Civil Procedure, by overnight courier, by United States mail, or by delivery to defendants' last known place of residence, regardless of whether defendants accept delivery of the documents.

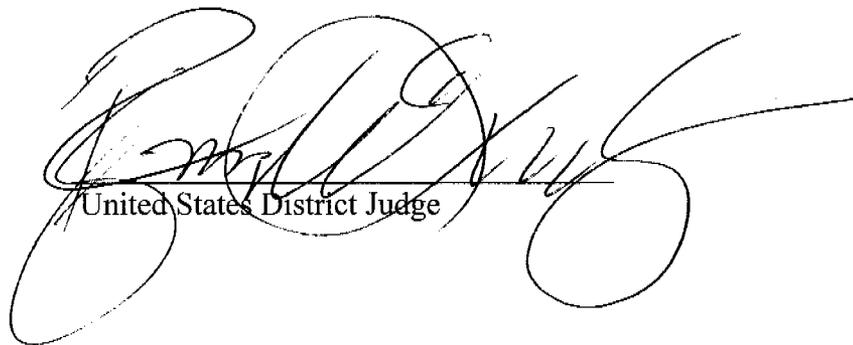
IX.

It is further ordered, adjudged and decreed that this court shall retain jurisdiction over this matter for the purpose of implementing and enforcing this final judgment.

SO ORDERED.

Dated:

8/22/00


United States District Judge