

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

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SECURITIES AND EXCHANGE COMMISSION
450 Fifth Street, N.W.
Washington, D.C. 20549,

Plaintiff,

v.

TIMOTHY ROSS,
DOUGLAS COATES and
JOHN D. PECKSKAMP, JR.

Defendants.

CIVIL ACTION NO. C-1-97-770
Judge Weber

4/15

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FINAL JUDGMENT OF PERMANENT INJUNCTION
AND OTHER RELIEF AS TO TIMOTHY ROSS

Plaintiff Securities and Exchange Commission ("Commission")
having commenced this action by filing its Complaint ("Complaint"),
and defendant TIMOTHY ROSS ("ROSS") having in his Consent of
Timothy Ross ("Consent"), which was filed simultaneously with this
Final Judgment of Permanent Injunction and Other Relief as to
Timothy Ross ("Final Judgment") and incorporated herein by
reference, entered a general appearance, admitted the jurisdiction
of this Court over him and the subject matter of this action,
waived the filing of an answer to the Complaint and 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, and it
appearing that this Court has jurisdiction over ROSS and the

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subject matter hereof, and the Court being fully advised in the premises:

I.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that ROSS, his agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise, are hereby permanently enjoined and restrained from violating, directly or indirectly, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] by, directly or indirectly, in the offer or sale of any securities, using any means or instruments of transportation or communication in interstate commerce or the mails:

(1) to employ any device, scheme, or artifice to defraud;

(2) to obtain 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 the statements made, in the light of the circumstances under which they were made, not misleading; or

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

II.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that ROSS, his agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise, are hereby

permanently enjoined and restrained from violating, directly or indirectly, 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 by, directly or indirectly, using any means or instrumentality of interstate commerce, or the mails, or 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 to omit to state a material fact necessary in order to make the statements made, in the 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 ROSS, his agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise, are hereby permanently enjoined and restrained from violating Rule 13b2-1 of the Exchange Act [17 C.F.R. § 240.13b2-1] by, directly or indirectly, falsifying or causing to be falsified, any book, record or account subject to Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)].

IV.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that ROSS, his agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise, are hereby permanently enjoined and restrained from violating Rule 13b2-2 of the Exchange Act [17 C.F.R. § 240.13b2-2] by, directly or indirectly:

(a) making or causing to be made a materially false or misleading statement, or

(b) omitting to state, or causing another person to omit to state, any material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading, to an accountant in connection with (1) any audit or examination of the financial statements of any issuer required to be made pursuant to the rules and regulations under the Exchange Act [17 C.F.R. § 240.0-1 et seq.] or (2) the preparation or filing of any document or report required to be filed with the Commission pursuant to the provisions of the Exchange Act or the rules or regulations promulgated thereunder or otherwise.

V.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. §78u(d)(2)], ROSS is prohibited from serving as an officer or director of any issuer that has a class of securities registered with the Commission pursuant to Section 12 of the Exchange Act [15 U.S.C. § 781] or

that is required to file reports with the Commission pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

-VI.-

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that ROSS shall disgorge \$838,661 in losses avoided as a result of his sales of Future Healthcare common stock on or about November 7, 1994. Based upon ROSS's sworn representations in his Statement of Financial Condition submitted to the Commission, payment of all but \$200,000 of the disgorgement and pre-judgment interest thereon is waived, contingent upon the accuracy and completeness of his Statement of Financial Condition. ROSS shall satisfy this disgorgement obligation of \$200,000 by paying at least \$100,000 within thirty (30) days of the entry of this Final Judgment, and the balance remaining no later than one year from the entry of this Final Judgment. Payment shall be made in the following manner:

- (a) such monies shall be paid into this Court's registry by certified check or money order drawn to the order of "Clerk, United States District Court, Southern District of Ohio," whereupon the Clerk of this Court, or the Financial Deputy Clerk, is hereby directed to deposit said certified check or money order into an interest bearing account ("Account") with the Court Registry Investment System ("CRIS");
- (b) simultaneously with payment, ROSS shall send copies of any certified checks or money orders to Elizabeth P. Gray, Branch Chief, Division of Enforcement, Securities

and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 4-4, Washington, D.C. 20549, under cover letter identifying Timothy ROSS as the defendant in this action, the case number of the action, the name of the Court, and the Commission's file number;

- (c) the Account shall be held by CRIS until further order of the Court, and distributed pursuant to a Court-approved plan to be proposed by the Commission, but in no event shall the monies disgorged revert, directly or indirectly, to ROSS, his heirs or assigns;
- (d) interest earned on the Account shall be credited to the Account and shall thereafter be treated in the same manner as principal; and
- (e) the Clerk of the Court is directed to deduct from the income earned on the investment a fee, not exceeding that authorized by the Judicial Conference of the United States and set by Director of the Administrative Office at or equal to 10% of the income earned in the investment so held and without further order of the Court.

VII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that based upon ROSS's sworn representations in his Statement of Financial Condition submitted to the Commission, civil penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Sections 21(d) and 21A(a) of the Exchange Act [15 U.S.C. §§ 78u(d) and 78u-1(a)] shall not be imposed. The determination not to

impose a civil penalty is contingent upon the accuracy and completeness of the his Statement of Financial Condition. If at any time following the entry of this Final Judgment the Commission obtains information indicating that COATES' 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 ROSS, petition this Court for an order requiring ROSS to pay the remaining portion of the disgorgement, pre-judgment and post-judgment interest thereon, and a civil penalty. In connection with any such petition, the only issues shall be whether the financial information provided by ROSS was fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made, and the amount of civil penalty to be imposed. In its petition, the Commission may move this Court to consider all available remedies, including, but not limited to, ordering ROSS to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of this Final Judgment, and the Commission may also request additional discovery. ROSS may not, by way of defense to such petition, challenge the validity of his Consent or the Final Judgment, contest the allegations in the Complaint filed by the Commission, contest the amount of disgorgement and interest, or assert that disgorgement or the payment of a civil penalty should not be ordered.

VIII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Consent be, and hereby is, incorporated herein by reference with the same force and effect as if fully set forth herein.

IX.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

X.

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

Dated: August 27, 1997


UNITED STATES DISTRICT JUDGE

Persons entitled to notice of this Order:

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