

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

SECURITIES AND EXCHANGE COMMISSION, : CIVIL ACTION  
Plaintiff, : NO. 97-2116  
v. : (DSD/JMM)  
: HEARING DATE-12/04/98  
: 11:00 AM  
: COURTROOM #14W  
: PLAINTIFF IS  
: NOT  
OMNI INTERNATIONAL TRADING, INC. : REQUESTING ORAL  
DANIEL J. BUBALO, : ARGUMENT  
JOHN C. HETHERINGTON, : JUDGE DOTY  
MICHAEL A. WILCOX, : MAGISTRATE JUDGE  
DANIEL L. KOEHLER, : MASON  
BRIAN E. FARLEY and :  
SCOTT A. RUDE :  
Defendants. :

**ORDER OF PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF BY  
DEFAULT AGAINST OMNI INTERNATIONAL TRADING, INC.,  
DANIEL L. KOEHLER AND MICHAEL A. WILCOX**

This cause coming on to be heard on motion of the Plaintiff, United States Securities and Exchange Commission (“Commission”), for an Order of Permanent Injunction and Other Equitable Relief by Default against Omni International Trading, Inc. (“Omni”), Daniel L. Koehler (“Koehler”) and Michael A. Wilcox (“Wilcox”), the Court having considered the Plaintiff's Motion for an Order of Permanent Injunction and Other Equitable Relief by Default against Omni International Trading, Inc., Daniel L. Koehler and Michael A. Wilcox, Plaintiff's Memorandum in Support of Its Motion for an Order of Permanent Injunction and Other Equitable Relief by Default against Omni International Trading, Inc., Daniel L. Koehler and Michael A. Wilcox, Plaintiff's Affidavit of Evelyn T. Kendra in Support of Its Motion for

FILED 12-4-98  
FRANCIS E. DOSAL, CLERK  
JUDGMENT ENTD. \_\_\_\_\_  
DEPUTY CLERK \_\_\_\_\_

an Order of Permanent Injunction and Other Equitable Relief by Default against Omni International Trading, Inc., Daniel L. Koehler and Michael A. Wilcox and the Plaintiff's Complaint, and the Court being fully advised in the premises, finds:

1. That this Court has jurisdiction of the subject matter of this case and all parties hereto.
2. That Defendants Omni, Koehler and Wilcox (collectively the "Defendants") have engaged, are engaged and are about to engage in acts, practices and courses of business which constitute violations of the federal securities laws.
3. Specifically, that Defendant Omni has engaged, is engaged and is about to engage in acts, practices and courses of business which constitute violations of Sections 5(a), 5(c), 17(a)(1), 17(a)(2) and 17(a)(3) of the Securities Act of 1933, as amended, ("Securities Act") [15 U.S.C. §77e(a), §77e(c), §77q(a)(1), §77q(a)(2) and §77q(a)(3)], 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.
4. Specifically, that Defendant Koehler has engaged, is engaged and is about to engage in acts, practices and courses of business which constitute violations of Sections 5(a), 5(c), 17(a)(1), 17(a)(2) and 17(a)(3) of the Securities Act, [15 U.S.C. §77e(a), §77e(c), §77q(a)(1), §77q(a)(2) and §77q(a)(3)], Sections 10(b), 15(a) and 15(c) of the Exchange Act [15 U.S.C. §78j(b), §78o(a) and §78o(c) and Rules 10b-5 and 15c1-2 [17 C.F.R. §240.10b-5 and §240.15c1-2] promulgated thereunder.
5. Specifically, that Defendant Wilcox has engaged, is engaged and is about to engage in acts, practices and courses of business which constitute violations of Sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §77q(a)(1), §77q(a)(2) and §77q(a)(3)], Section 10(b) of the Exchange Act [15 U.S.C. §78j(b) ] and Rule 10b-5 [17 C.F.R.

§240.10b-5] promulgated thereunder.

6. That without an order permanently enjoining Defendants from violating the securities laws set forth herein, there is a substantial likelihood that Defendants will continue to violate the federal securities laws.

7. That it is necessary for the Defendants to pay disgorgement, plus prejudgment interest, and a civil penalty in order to make their violations of the federal securities laws unprofitable and to deter future violations.

**I.**

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that Defendants Omni and Koehler, their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, and each of them, be and hereby are permanently enjoined from, directly or indirectly: (1) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell or offer to sell securities through the use or medium of any prospectus or otherwise, unless a registration statement is in effect with the Commission as to such securities; (2) carrying or causing to be carried such securities through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or for delivery after sale, unless a registration statement is in effect with the Commission as to such securities; or (3) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy such securities, through the use or medium of any prospectus or otherwise, unless a registration statement has been filed with the Commission as to such securities, or while a registration statement as to such securities is the subject of a refusal order or stop order or any public proceeding or examination under Section 8 of the Securities Act [15 U.S.C. §77h], in violation of Sections 5(a) or 5(c) of the Securities Act [15 U.S.C. §77e(a) or §77e(c)].

**II.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendants Omni, Koehler and Wilcox, their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, and each of them, be and hereby are permanently enjoined from, directly or indirectly, in the offer or sale of promissory notes, or any other security, by the use of the means or instruments of transportation or communication in interstate commerce or by the use of the mails, employing devices, schemes or artifices to defraud; obtaining money or property by means of untrue statements of material facts or omissions of material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or engaging in transactions, practices or courses of business which operate or would operate as a fraud or deceit upon purchasers or prospective purchasers of promissory notes, or any other security, in violation of Sections 17(a)(1), 17(a)(2) or 17(a)(3) of the Securities Act [15 U.S.C. §77q(a)(1), §77q(a)(2) or §77q(a)(3)].

**III.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendants Omni, Koehler and Wilcox, their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, and each of them, be and hereby are permanently enjoined from, directly or indirectly, in connection with the purchase or sale of promissory notes, or any other security, by the use of the means or instrumentalities of interstate commerce or of the mails, employing devices, schemes or artifices to defraud; making untrue statements of material facts or omissions of material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or engaging in acts, practices or courses of business which operate or will operate as a fraud or deceit upon purchasers or sellers or prospective purchasers or sellers of promissory notes, or

any other security, in violation of Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5 [17 CFR §240.10b-5] promulgated thereunder.

IV.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant Koehler, his officers, agents, servants, employees, attorneys, and those persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, and each of them, be and hereby are permanently enjoined from, directly or indirectly, by the use of the mails or any means or instrumentality of interstate commerce, effecting any transactions in, or inducing or attempting to induce the purchase or sale of any security (other than an exempted security or commercial paper, bankers' acceptances or commercial bills) unless 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)], in violation of Section 15(a) of the Exchange Act [15 U.S.C. §78o(a)].

V.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant Koehler, his officers, agents, servants, employees, attorneys, and those persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, and each of them, be and hereby are permanently enjoined from, *while acting as a broker or dealer, directly or indirectly, by the use of the mails or any means or instrumentality of interstate commerce, effecting any transactions in, or inducing or attempting to induce the purchase or sale of any security (other than an exempted security or commercial paper, bankers' acceptances or commercial bills) otherwise than on a national exchange of which they are members, by means of any manipulative, deceptive or other fraudulent device or contrivance; or by means of any act, practice or course of business which operates or would*

operate as a fraud or deceit upon any person; or by means of any untrue statement of 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 are made, not misleading, where such statement or omission is made with knowledge or reasonable grounds to believe that it is untrue or misleading, in violation of Section 15(c) of the Exchange Act [15 U.S.C. §78o(c)] and Rule 15c1-2 [17 C.F.R. §240.15c1-2] thereunder.

**VI.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that this Court hereby orders Omni to pay \$1,598,342 in disgorgement of ill-gotten gains and to pay \$884,862 in prejudgment interest on that amount. The Court also hereby orders Koehler to pay \$222,632 in disgorgement of ill-gotten gains and orders Koehler to pay \$126,062 in prejudgment interest on that amount. The Court further hereby orders Wilcox to pay \$286,516 in disgorgement of ill-gotten gains and orders Wilcox to pay \$130,044 in prejudgment interest on that amount.

**VII.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that this Court finds that civil penalties, pursuant to Section 20(d) of the Securities Act [15 U.S.C. §77t(d)] and Section 21(d)(3) of the Exchange Act, as amended [15 U.S.C. §78u(d)(3)], are appropriate and shall be imposed against Defendants Koehler and Wilcox in the amount of \$100,000 each.

**VIII.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendants Omni, Koehler and Wilcox pay disgorgement, including prejudgment interest, and Defendants Koehler and Wilcox pay civil penalties ordered herein within thirty (30) days of the entry of this Order. Payment of the disgorgement, including prejudgment interest, shall be made to the Clerk, U.S. District Court, of the District of Minnesota, by Cashier's Check or certified

check. The Clerk shall deposit this payment or payments into an interest-bearing account and shall deduct from the account any fee authorized by the Judicial Conference of the United States. Payment of the civil penalties shall be: 1) made by cashier's check or certified check; 2) made payable to the United States Treasury and 3) mailed to the Commission's offices in Chicago, Illinois.

**IX.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that this Court shall retain jurisdiction of this action for all purposes, among other things, any further actions to implement and carry out the terms of all orders and decrees that may be entered or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

**IT IS SO ORDERED:**



Honorable David S. Doty  
UNITED STATES DISTRICT JUDGE

Dated: December 4, 1998