

ORIGINAL

UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF TEXAS
Dallas Division

NORTHERN DISTRICT OF TEXAS
FILED
 APR - 2 2001
 CLERK, U.S. DISTRICT COURT
 By _____
 Deputy

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ROBERT P. OLIVER, WALTER W. WHITE,
GERALD W. WHITE, HOWARD WHITE AND
DANIEL P. PATTON,

Defendants.

COMPLAINT
FOR INJUNCTIVE
AND OTHER EQUITABLE
RELIEF

3-01CV0649-D

Plaintiff, Securities and Exchange Commission (the "Commission"), for its
Complaint, alleges as follows:

SUMMARY

1. This is an insider trading case involving trading in the securities of
Enserch Corporation in advance of the public announcement on April 15, 1996, that
Enserch was about to merge with Texas Utilities ("TXU"). On or about April 5, 1996,
defendant Robert Oliver, a practicing lawyer and a partner in a Dallas law firm that
represented TXU, learned about the impending merger from one of his law firm
partners.

2. Armed with the information, defendant Robert Oliver entered into a profit-
sharing scheme with defendant Daniel Patton and exploited the secret information.
Pursuant to the scheme, defendant Patton purchased Enserch securities at Robert
Oliver's direction in advance of the public announcement of the merger.

3. Defendant Robert Oliver also tipped his personal friend, defendant Walter White, who then also purchased Enserch securities in advance of the public merger announcement. Walter White, in turn, tipped his father, defendant Gerald White, and his brother, defendant Howard White. They, too, purchased Enserch securities. Gerald White then recommended to three other people that they purchase Enserch securities. Finally, Robert Oliver also tipped another individual not named as a defendant in this Complaint. After the merger was announced, the price of Enserch securities rose substantially and the defendants' purchases of Enserch securities produced, in the aggregate, profits of over \$100,000, all as more fully set forth below.

JURISDICTION

4. The Securities and Exchange Commission brings this action for injunctions, disgorgement and civil penalties pursuant to Sections 21(d), (e) and 21A of the Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. §§ 78u(d), 78u(e) and 78u-1.

5. This Court has jurisdiction over this action under Sections 21(e) and 27 of the Exchange Act, 15 U.S.C. §§ 78u(e) and 78aa.

6. In connection with the transactions, acts, practices, and courses of business described in this Complaint, the defendants, directly and indirectly, made use of the means or instrumentalities of interstate commerce, the mails, interstate communications and/or the facilities of a national securities exchange.

THE DEFENDANTS AND THE COMPANIES

7. Defendant Robert P. Oliver lives in Dallas, Texas. At the time of these events, he was a practicing lawyer and a partner in the Dallas law firm that represented Texas Utilities in its acquisition of Enserch.

8. Defendant Walter W. White lives in Plano, Texas. At the time of these events, he was a practicing lawyer in a Dallas law firm.

9. Defendant Gerald W. White lives in Granbury, Texas. Gerald White is Walter White's father.

10. Howard White lives in Granbury, Texas. He is Walter White's brother.

11. Daniel P. Patton lives in Cincinnati, Ohio.

12. Texas Utilities Company, at the time of these events, was a Texas corporation engaged in the electricity and natural gas business. After it acquired Enserch, it changed its name to Texas Energy Industries, Inc., and now is known as TXU. Its common stock is registered with the Securities and Exchange Commission under Section 12(b) of the Exchange Act and is traded on the New York, Pacific and Chicago Stock Exchanges.

13. Enserch Corporation, at the time of these events, was a Texas corporation engaged in distributing and exploring for natural gas. Its common stock was registered with the Securities and Exchange Commission under Section 12(b) of the Exchange Act and traded on the New York, Chicago and London Stock Exchanges. Enserch options were traded on the Pacific Stock Exchange. Since August 1997, Enserch has been a wholly owned subsidiary of TXU.

FACTS

The TXU/Enserch Merger

14. On April 15, 1996, Enserch and TXU announced that TXU had agreed to acquire Enserch for \$550 million in common stock and the assumption of \$1.15 billion of Enserch debt (the "merger announcement"). The merger announcement caused an immediate rise in the price of Enserch stock. That day, the price of Enserch stock closed at \$20 3/4 per share, a gain of \$4 3/8 from the previous day's close.

15. In the weeks preceding the announcement, each company retained outside consultants, investment bankers and public relations firms. At the time of the Enserch/TXU merger and the events leading up to it, Robert Oliver was a practicing lawyer and a partner in the Dallas law firm that was acting as lead counsel for TXU.

16. TXU expected Robert Oliver's law firm, including its partners and employees, to maintain the secrecy of the merger negotiations. The firm endeavored to maintain the secrecy of the negotiations.

17. On or about April 5, 1996, Robert Oliver obtained material, nonpublic information about the merger negotiations from one of his law firm partners.

Enserch Purchases by Robert Oliver's Tippees

18. Shortly after Robert Oliver obtained the material, nonpublic information about the merger negotiations, he called his friend, Daniel Patton, and told Patton to purchase 1,200 shares of Enserch for Patton's securities brokerage account and agreed with Patton that the two would split the profits. Robert Oliver told Patton to keep their scheme secret.

19. Daniel Patton bought 1,200 shares of Enserch for his own account on April 11, 1996, four days before the merger announcement. On May 31, 1996, several weeks after the merger announcement, Patton sold the stock for a profit of \$6,450.00.

20. Prior to the announcement, Robert Oliver tipped another individual not named as a defendant in this Complaint, who purchased 3050 shares of Enserch securities prior to the announcement resulting in profits of over \$11,000.

21. Between April 5, 1996, and April 10, 1996, Robert Oliver also tipped his friend, defendant Walter White, with the material, nonpublic information about the merger negotiations. At the time, Walter White was a practicing lawyer and a partner in another Dallas law firm. On April 10, 1996, before the announcement of the merger, Walter White bought 3,000 shares of Enserch common stock. The next day, Walter White directed his wife to buy 1,500 shares of Enserch common stock in her account, and he bought 30 May 17 ½ Enserch call option contracts in his account. The shares and options in all of these accounts were sold shortly after the merger announcement for a total profit of \$28,500.

22. Between April 5, 1996, and April 11, 1996, Walter White tipped his father, defendant Gerald White, and his brother, defendant Howard White, with the material, nonpublic information about the merger negotiations.

23. On April 11, 1996, before the merger announcement, Howard White purchased 50 August 17 ½, 50 May 20 and 150 May 17 ½ Enserch call option contracts. Howard White sold his option contracts after the merger announcement, profiting by \$62,812.50.

24. On April 11, 1996, before the merger announcement, Gerald White purchased 500 shares of Enserch common stock and 80 May 17 ½ and 40 August 17 ½ Enserch call option contracts. Gerald White sold these securities after the merger announcement for a profit of \$37,000.

25. On April 11, 1996, Gerald White directed the purchase of 885 shares of Enserch common stock for the accounts of certain family members. The shares were sold the day after the merger announcement for a profit of \$3,650.62.

26. On April 12, 1996, Gerald White telephoned a friend and recommended that the friend buy Enserch securities. Gerald White's friend bought 1,150 shares of Enserch common stock on April 12, 1996, and sold these shares shortly after the merger announcement for a profit of \$4,806.25.

FIRST CLAIM
(ROBERT OLIVER)

27. Paragraphs 1 through 26 are restated here and incorporated by reference.

28. Robert Oliver misappropriated material, nonpublic information regarding the Enserch/TXU merger negotiations in violation of his fiduciary duty to his employer and his firm's client and engaged in a scheme to trade on the information for his own advantage by arranging for the purchase of Enserch securities before the merger announcement.

29. In violation of his fiduciary duty to his employer and his firm's client, Robert Oliver disclosed information regarding the secret merger negotiations to others who he knew, or was reckless in not knowing, would trade in the securities of Enserch,

including defendants Walter White and Daniel Patton, and another individual not named as a defendant in this complaint.

30. Robert Oliver's actions violated Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Commission Rule 10b-5, 17 C.F.R. § 240.10b-5.

SECOND CLAIM
(DANIEL PATTON)

31. Paragraphs 1 through 26 are restated here and incorporated by reference.

32. Daniel Patton purchased Enserch securities while in possession of material nonpublic information regarding Enserch that he knew or was reckless in not knowing was acquired in breach of a fiduciary duty.

33. Daniel Patton's actions violated Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Commission Rule 10b-5, 17 C.F.R. § 240.10b-5.

THIRD CLAIM
(WALTER WHITE)

34. Paragraphs 1 through 26 are restated here and incorporated by reference.

35. Walter White purchased and directed the purchase of Enserch securities while in possession of material nonpublic information regarding Enserch that he knew or was reckless in not knowing was acquired in breach of a fiduciary duty.

36. Walter White disclosed information regarding the secret merger negotiations to defendants Howard White and Gerald White, who he knew, or was reckless in not knowing, would trade in the securities of Enserch.

37. Walter White's actions violated Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Commission Rule 10b-5, 17 C.F.R. § 240.10b-5.

FOURTH CLAIM
(HOWARD WHITE)

38. Paragraphs 1 through 26 are restated here and incorporated by reference.

39. Howard White purchased Enserch securities while in possession of material nonpublic information regarding Enserch that he knew or was reckless in not knowing was acquired in breach of a fiduciary duty.

40. Howard White's actions violated Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Commission Rule 10b-5, 17 C.F.R. § 240.10b-5.

FIFTH CLAIM
(GERALD WHITE)

41. Paragraphs 1 through 26 are restated here and incorporated by reference.

42. Gerald White purchased and caused to be purchased Enserch securities while in possession of material nonpublic information regarding Enserch that he knew or was reckless in not knowing was acquired in breach of a fiduciary duty.

43. Gerald White's actions violated Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Commission Rule 10b-5, 17 C.F.R. § 240.10b-5.

REQUEST FOR RELIEF

The Commission respectfully requests that the Court:

I.

Issue a Final Judgment of Permanent Injunction and Other Relief:

A. Permanently restraining and enjoining Robert Oliver, his agents, servants, employees, and attorneys, and those persons in active concert or participation with him,

and each of them, from violating, directly or indirectly, Sections 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Commission Rule 10b-5, 17 C.F.R. § 240.10b-5.

B. Ordering Robert Oliver to disgorge the profits he received from Daniel Patton from their transaction in the securities of Enserch and pay prejudgment interest;

C. Ordering Robert Oliver to pay a civil penalty, pursuant to the Insider Trading Sanctions Act of 1984, 15 U.S.C. § 78u-1, in an amount determined to be just and appropriate by the Court;

D. Permanently restraining and enjoining Daniel Patton, his agents, servants, employees, and attorneys, and those persons in active concert or participation with him, and each of them, from violating, directly or indirectly, Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Commission Rule 10b-5, 17 C.F.R. § 240.10b-5.

E. Ordering Daniel Patton to disgorge his profit from his transactions in the securities of Enserch and pay prejudgment interest;

F. Ordering Daniel Patton to pay a civil penalty, pursuant to the Insider Trading Sanctions Act of 1984, 15 U.S.C. § 78u-1, in an amount determined to be just and appropriate by the Court;

G. Permanently restraining and enjoining Walter White, his agents, servants, employees, and attorneys, and those persons in active concert or participation with him, and each of them, from violating, directly or indirectly, Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Commission Rule 10b-5, 17 C.F.R. § 240.10b-5;

H. Ordering Walter White to disgorge the profits from his transactions and the transactions he directed in the securities of Enserch and pay prejudgment interest;

I. Ordering Walter White to pay a civil penalty, pursuant to the Insider Trading Sanctions Act of 1984, 15 U.S.C. §78u-1, in an amount determined to be just and appropriate by the Court;

J. Permanently restraining and enjoining Howard White, his agents, servants, employees, and attorneys, and those persons in active concert or participation with him, and each of them, from violating, directly or indirectly, Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Commission Rule 10b-5, 17 C.F.R. § 240.10b-5.

K. Ordering Howard White to disgorge his profits from his transactions in the securities of Enserch and pay prejudgment interest;

L. Ordering Howard White to pay a civil penalty, pursuant to the Insider Trading Sanctions Act of 1984, 15 U.S.C. §78u-1, in an amount determined to be just and appropriate by the Court;

M. Permanently restraining and enjoining Gerald White, his agents, servants, employees, and attorneys, and those persons in active concert or participation with him, and each of them, from violating, directly or indirectly, Sections 10(b) of the Exchange Act , 15 U.S.C. § 78j(b), and Commission Rule 10b-5, 17 C.F.R. § 240.10b-5;

N. Ordering Gerald White to disgorge his profits and the profits from the trades he caused to be made from transactions in the securities of Enserch and pay prejudgment interest on the profits;

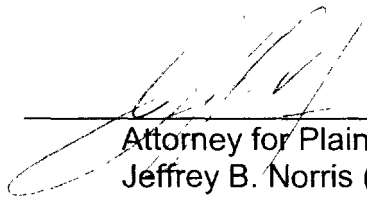
O. Ordering Gerald White to pay a civil penalty, pursuant to the Insider Trading Sanctions Act of 1984, 15 U.S.C. § 78u-1, in an amount determined to be just and appropriate by the Court; and

II.

Grant such other and additional relief as this Court deems just and proper.

Dated: March 5th, 2001

THE SECURITIES AND EXCHANGE COMMISSION



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