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Clerk, U. S. Dist. Court
W. Dist of N. C.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

U.S. DISTRICT COURT
W. DIST. OF N.C.

_____)
SECURITIES AND EXCHANGE COMMISSION,)
)
Plaintiff,)
)
)
)
v.)
)
JAMES A. NIES,)
JEFFREY DENE LEADER and)
HAROLD DALTON DAVLIN,)
)
Defendants.)
_____)

CIVIL ACTION NO:
3:00-CV-465-MG

FILED
CHARLOTTE, N.C.

NOV 1 2001

U.S. DISTRICT COURT
W. DIST. OF N.C.

**ORDER OF PERMANENT INJUNCTION
AND OTHER RELIEF AS TO HAROLD DALTON DAVLIN**

Defendant Harold Dalton Davlin ("Davlin") by signed stipulation and consent, without admitting or denying any of the allegations in the Commission's Complaint, except that he is admitting the allegation as to the jurisdiction over him of this Court and over the subject matter of this action, has agreed to the entry of this Order Of Permanent Injunction And Other Relief. This Court having accepted such Consent and having jurisdiction over Defendant Davlin and the subject matter hereof, and the Court being fully advised in the premises,

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I.

**FRAUD IN VIOLATION OF SECTION 10(b) OF
THE EXCHANGE ACT AND RULE 10b-5 THEREUNDER**

IT IS ORDERED that Davlin, his officers, agents, servants, employees, attorneys, and those persons in active concert or participation with him and each of them, in connection with the purchase or sale of any security by use of any means or instrumentality of interstate commerce or of the mails, or by use of any facility of any national securities exchange, be and they hereby are, restrained and enjoined from, directly or indirectly, or as a control person under Section 20(a) of the Securities Exchange Act of 1934 ("Exchange Act"):

1. employing any device, scheme, or artifice to defraud;
2. making any untrue statement of a material fact or omitting 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. engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person;

in violation of 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.

II.

INCORPORATION OF CONSENT

IT IS FURTHER ORDERED that Defendant Davlin shall comply with the provisions of his Stipulation and Consent to this Order, and that such Consent is incorporated herein by reference as if fully set forth herein.

III.

DISGORGEMENT

IT IS HEREBY FURTHER ORDERED that Defendant Davlin pay disgorgement in the amount of \$17,072, representing his gains from the conduct alleged in the Complaint, plus pre-judgment interest. Defendant Davlin shall pay \$4,268 to United States Treasury within thirty (30) days from the date of the entry of this Order by cashier's check, certified check, or postal money order made payable to the U.S. Treasury; hand-delivered or delivered by overnight delivery service to the Comptroller, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and submitted under a cover letter which identifies Davlin as a defendant in these proceedings, a copy of which cover letter and money order or check shall be sent to Edward G. Sullivan, Senior Trial Counsel, Securities and Exchange Commission, 3475 Lenox Road, N.E., Suite 1000, Atlanta, Georgia 30326-1232, within five days after the payment is made. Thereafter, at each of the two 90-day intervals thereafter, Davlin shall pay to the United States Treasury the sum of at least \$4,268, and shall with each such payment provide notice in the manner prescribed above. Davlin shall within 90 days after the third payment make one balloon payment in the amount of the outstanding balance such that within one year from the entry of this order, the debt of \$17,072 in disgorgement has been retired.

IV.

PREJUDGMENT INTEREST AND CIVIL PENALTY

IT IS HEREBY FURTHER ORDERED that based upon Defendant's sworn representations in his Statement of Financial Condition dated November 1, 2000, and

submitted to the Commission, payment of pre-judgment interest on disgorgement is waived, contingent upon the accuracy and completeness of his Statement of Financial Condition. Based upon Defendant Davlin's sworn representations in his Statement of Financial Condition dated November 1, 2000, and submitted to the Commission, the Court is not ordering him to pay a civil penalty pursuant to Section 21 (d) (3) of the Exchange Act, 15 U.S.C. §78 (d) (3). The determination not to impose a civil penalty and to waive payment of pre-judgment interest on the amount of disgorgement is contingent upon the accuracy and completeness of Davlin's Statement of Financial Condition. If at any time following the entry of this Final Judgment the Commission obtains information indicating that Defendant'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 Defendant, petition this Court for an order requiring Defendant to pay pre-judgment and post-judgment interest thereon, along with a civil penalty. In connection with any such petition, the only issues shall be whether the financial information provided by Defendant was fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made, and the amount of interest and penalty to be imposed. In its petition, the Commission may move this Court to consider all available remedies, including, but not limited to, ordering Defendant to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of this Order of Permanent Injunction, and the Commission may also request additional discovery. Defendant may not, by way of defense to such petition, challenge the validity of his


Consent or the Order of Permanent Injunction, contest the allegations in the Complaint filed by the Commission, contest the amount of interest, or assert that the payment of a civil penalty should not be ordered.

V.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court will retain jurisdiction over this matter and Defendant Davlin in order to implement and carry out the terms of all Orders and Decrees that may be entered.

DONE AND ORDERED this 14th day of Nov, 2001.


UNITED STATES DISTRICT JUDGE

United States District Court
for the
Western District of North Carolina
November 1, 2001

* * MAILING CERTIFICATE OF CLERK * *

Re: 3:00-cv-00465

True and correct copies of the attached were mailed by the clerk to the following:

Edward G. Sullivan, Esq.
Securities and Exchange Commission
3475 Lenox Road, N.E., Suite 1000
Atlanta, GA 30326-1232

Betty M. Terry, Esq.
Securities and Exchange Commission
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cc:
Judge ()
Magistrate Judge ()
U.S. Marshal ()
Probation ()
U.S. Attorney ()
Atty. for Deft. ()
Defendant ()
Warden ()
Bureau of Prisons ()
Court Reporter ()
Courtroom Deputy ()
Orig-Security ()
Bankruptcy Clerk's Ofc. ()
Other _____ ()

Date: 11/1/01

Frank G. Johns, Clerk

By: 
Deputy Clerk