

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

U.S. DISTRICT COURT NORTHERN DISTRICT OF TEXAS <b>FILED</b> <b>AUG - 1 2001</b> Civil Action No. U.S. DISTRICT COURT By _____ Deputy <i>ajil</i>
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SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

LARRY BIGGS, JR., DONALD McLELLAN,  
and LESLIE D. CRONE,

Defendants.

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01CV1474-D



**FINAL JUDGMENT OF PERMANENT INJUNCTION AND OTHER  
EQUITABLE RELIEF AGAINST DONALD McLELLAN**

Plaintiff Securities and Exchange Commission, having filed its Complaint in this matter, and defendant Donald McLellan, through his Stipulation and Consent ("Consent"), having admitted service of the Complaint and waived service of the summons, having admitted the jurisdiction of this Court, having waived the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, having entered into his Consent voluntarily, no threats, promises of immunity or assurances having been made by the Commission or by any of its members, officers, agents or representatives to induce him to enter into his Consent, having consented, without admitting or denying any of the allegations in the Commission's Complaint, except as to jurisdiction as set forth above, to entry without further notice of this Final Judgment of Permanent Injunction and Other Equitable Relief enjoining him from engaging in transactions, acts, practices and courses of business which constitute and would constitute violations of, or aiding and abetting

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violations of, Sections 10(b), 13(a), 13(b)(2) and 13(b)(5) of the Securities Exchange Act of 1934 [15 U.S.C. §§ 78j(b), 78m(a), 78(m)(b)(2) and 78m(b)(5)], and Rules 10b-5, 12b-20, 13b2-1 and 13b2-2 thereunder [17 C.F.R. §§ 240.10b-5, 240.12b-20, 240.13b2-1 and 240.13b2-2]; and it further appearing that this Court has jurisdiction over defendant and over the subject matter of this action and that no further notice of hearing for the entry of this Final Judgment need be given; and the Court being fully advised in the premises:

I.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that defendant McLellan and his agents, servants, employees, attorneys-in-fact and all other persons in active concert or participation with him who receive actual notice of this Final Judgment by personal service or otherwise, be and hereby are permanently restrained and enjoined, directly or indirectly, in connection with the purchase or sale of securities, from making use of any means or instrumentalities of interstate commerce or of the mails, or of any facility of any national securities exchange:

- (a) to employ any device, scheme or artifice to defraud;
- (b) 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
- (c) to engage 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 defendant McLellan and his agents, servants, employees, attorneys-in-fact and all other persons in active concert or participation with him who receive actual notice of this Final Judgment by personal service or otherwise, be and hereby are permanently restrained and enjoined from directly or indirectly causing or aiding and abetting any issuer of securities registered under Section 12 of the Exchange Act [15 U.S.C. § 78l] to violate Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 13a-1, 13a-13, and 12b-20 [17 C.F.R. §§ 240.13a-1, 240.13a-13, and 240.12b-20] thereunder, by:

- a. filing or causing to be filed with the SEC any annual or quarterly report on behalf of any issuer, required to be filed with the SEC pursuant to Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and the rules and regulations thereunder, which contains any untrue statement of material fact, which omits to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or which omits to disclose any information required to be disclosed; or
- b. failing to add such further material information to any quarterly report filed on behalf of any issuer, as may be necessary, to make the required statements, in the light of the circumstances under which they are made not misleading.

III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant McLellan and his agents, servants, employees, attorneys-in-fact and all other persons in

active concert or participation with him who receive actual notice of this Final Judgment by personal service or otherwise, be and hereby are permanently restrained and enjoined from violating Sections 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)], and Rule 13b2-1 [17 C.F.R. § 240.13b2-1] thereunder, by directly or indirectly circumventing or knowingly failing to implement a system of internal accounting controls or knowingly falsifying any book, record, or account required in Section 13(b)(2) of the Exchange Act [15 U.S.C. § 78m(b)(2)].

IV.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant McLellan and his agents, servants, employees, attorneys-in-fact and all other persons in active concert or participation with him who receive actual notice of this Final Judgment by personal service or otherwise, be and hereby are permanently restrained and enjoined from directly or indirectly causing or aiding and abetting any issuer of securities registered under Section 12 of the Exchange Act to violate Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)] and Rule 13b2-1 [17 C.F.R. § 240.13b2-1] thereunder by failing to:

- a. make and keep accurate books, records and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer; or
- b. devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that: transactions are executed in accordance with management's general or specific authorization; transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such

statements, and to maintain accountability for assets; access to assets is permitted only in accordance with management's general or specific authorization; and the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

V.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant McLellan and his agents, servants, employees, attorneys-in-fact and all other persons in active concert or participation with him who receive actual notice of this Final Judgment by personal service or otherwise, be and hereby are permanently restrained and enjoined from violating Section 13(b)(2) of the Exchange Act [15 U.S.C. §§ 78m(b)(2)], and Rule 13b2-2 [17 C.F.R. § 240.13b2-2] thereunder, by directly or indirectly, while an officer or director of an issuer:

- a. making or causing to be made a materially false or misleading statement, or
- b. omitting to state, or causing another to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which they were made, not misleading to an accountant in connection with (1) any audit or examination of the financial statements of the issuer required to be made pursuant to Section 13(a) of the Exchange Act or (2) the preparation or filing of any document or report required to be filed with the Commission pursuant to Section 13 of the Exchange Act or otherwise.

VI.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant McLellan shall pay a civil money penalty of \$40,000, pursuant to the provisions of Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)], within 120 days of the entry of this Final Judgment. Such payment shall be: (A) made by United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Comptroller, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and (D) submitted under cover letter that identifies McLellan as a defendant in this civil action, and the docket number hereof, a copy of which cover letter and money order or check shall be sent to Harold F. Degenhardt, the District Administrator of the Fort Worth District Office, Securities and Exchange Commission, 801 Cherry Street, Suite 1900, Fort Worth Texas 76102.

VII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant McLellan's Consent filed herein be, and the same is hereby, incorporated in this Final Judgment with the same force and effect as if fully set forth herein.

VIII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction of this action for all purposes, including for purposes of entertaining any

suitable application or motion by the Commission for additional relief within the jurisdiction of this Court, including but not limited to the relief requested by the Commission in its Complaint in this action.

IX.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Final Judgment may be served upon defendant in person or by mail either by the United States marshal, by the Court's Clerk or by any member of the Commission's staff.

DATED and SIGNED this 1st day of August, 2001.

  
UNITED STATES DISTRICT JUDGE

AGREED AS TO FORM AND SUBSTANCE AND ENTRY REQUESTED:



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David L. Peavler

Texas Bar No. 00784738

SECURITIES AND EXCHANGE COMMISSION

801 Cherry Street, 19th Floor

Fort Worth, Texas 76102

Telephone: (817) 978-3821

Facsimile: (817) 978-2700

ATTORNEY FOR PLAINTIFF



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Donald McLellan