

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

_____	)	
SECURITIES AND EXCHANGE COMMISSION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CA 02-154 ML
	)	
DENNIS S. HERULA, <i>et al.</i> ,	)	
	)	
Defendants,	)	
	)	
-and-	)	
	)	
DAVID L. ULLOM,	)	
	)	
Relief Defendant.	)	
_____	)	

~~PROPOSED~~ **JUDGMENT AGAINST DEFENDANT ROBERT M. WACHTEL**

Defendant Robert M. Wachtel ("Wachtel"), having failed to plead or otherwise defend in this action and his default having been entered, and Plaintiff Securities and Exchange Commission ("Commission"), having filed a Complaint on April 1, 2002, and an Amended Complaint on April 3, 2002, both alleging that Wachtel violated Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. 77q(a)], and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5];

Now, upon application of the Commission and affidavits and documents demonstrating that Wachtel owes the Commission the sum of \$12,500,000.00, plus prejudgment interest in the

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amount of \$4,027,418.32; and that Wachtel is not an infant or incompetent person or in the military service of the United States, it is hereby ORDERED, ADJUDGED AND DECREED:

I.

that Defendant ROBERT M. WACHTEL, his agents, servants, employees, attorneys, successors and assigns and all persons in active concert or participation with him who receive actual notice of this JUDGMENT AGAINST DEFENDANT ROBERT M. WACHTEL by personal service or otherwise, be and hereby is permanently restrained and enjoined from violating or aiding and abetting violations of Section 17(a) of the Securities Act [15 U.S.C. 77q(a)] by, directly or indirectly, through the use of any means or instrumentalities of interstate commerce, or the mails, or of any facility of any national securities exchange,

- (a) employing any device, scheme or artifice to defraud;
- (b) obtaining any 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 light of the circumstances under which they were made, not misleading; or
- (c) engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser, in the offer or sale of any security.

II.

that Defendant ROBERT M. WACHTEL, his agents, servants, employees, attorneys, successors and assigns and all persons in active concert or participation with him who receive actual notice of this JUDGMENT AGAINST ROBERT M. WACHTEL by personal service or otherwise, be and hereby is permanently restrained and enjoined from violating or aiding and abetting violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5] by directly or indirectly using any means or instrumentality of interstate commerce, or of the mails, or of 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 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.

that Defendant ROBERT M. WACHTEL shall be jointly and severally liable with other defendants in this action for disgorgement of the ill-gotten gains he received in connection with the violations described in the Complaint and Amended Complaint as follows:

- A. Defendant ROBERT M. WACHTEL shall be liable for disgorgement of \$12,500,000.00, plus prejudgment interest thereon in the amount of \$4,027,418.32, for a total of \$16,527,418.32.
- B. The disgorgement payment shall be made within 30 days of the entry of judgment. The payment shall be made by money order, certified check or cashier's check made payable to Clerk, United States District Court and shall be mailed to the Clerk of the Court with a cover letter identifying the name of this action and the docket number. A copy of the letter shall be mailed to Luke T. Cadigan, Securities and Exchange Commission, 73 Tremont St., Boston, MA 02108.

IV.

With respect to the Commission's request for the imposition of civil monetary penalties pursuant to Section 20(d) of the Securities Act and Section 21(d)(3) of the Exchange Act, a penalty in the amount of \$ 100,000.00 shall be imposed against Defendant ROBERT M. WACHTEL. Defendant ROBERT M. WACHTEL shall make this payment within 30 days of the entry of judgment. The payment shall be made by money order, certified check or cashier's check made payable to the United States Securities and Exchange Commission. The payment shall be transmitted to the Comptroller, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 0-3, Washington, D.C. 20549 with a cover letter identifying the name and docket number of this action. A copy of the letter shall be mailed to Luke T. Cadigan, Securities and Exchange Commission, 73 Tremont St., Boston, MA 02108.

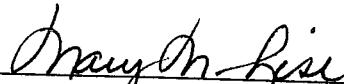
V.

This COURT shall retain jurisdiction over Defendant ROBERT M. WACHTEL as a party to this matter for all purposes, including the implementation and enforcement of this JUDGMENT AGAINST DEFENDANT ROBERT M. WACHTEL.

VI.

There being no just reason for delay, the Clerk of the Court is directed to enter this JUDGMENT AGAINST DEFENDANT ROBERT M. WACHTEL forthwith.

DONE AND ORDERED at Providence, Rhode Island, this 15<sup>th</sup> day of September, 2004.

  
UNITED STATES DISTRICT COURT JUDGE