

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 02-80466-CIV-HURLEY/LYNCH

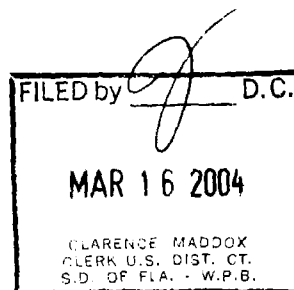
UNITED STATES SECURITIES
AND EXCHANGE COMMISSION,

Plaintiff,

v.

INVESTCO, INC., et al.,

Defendants.



**ORDER ADOPTING MAGISTRATE'S REPORT AND RECOMMENDATION &
ENTERING FINAL JUDGMENT OF PERMANENT INJUNCTION,
DISGORGEMENT AND CIVIL PENALTIES AGAINST
DEFENDANT JOSEPH L. LENTS**

THIS CAUSE is before the court upon Plaintiffs' Motion for Summary Judgment seeking entry of Permanent Injunction and Other Relief [DE # 113]. This matter was previously referred to United States Magistrate Judge Frank J. Lynch, Jr., pursuant to 28 U.S.C. §§ 636-39 and Rule 72 of the Federal Rules of Civil Procedure, for a recommended disposition. On August 4, 2003, Magistrate Judge Lynch filed a Report and Recommendation upon the motion. [DE# 178]. On November 7, 2003, this Court entered its order adopting the Magistrate Judge's Report and Recommendation and entered final judgment of permanent injunction, disgorgement and civil penalties against the then remaining defendants in the case, including defendant Joseph Lents. [DE # 203].

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Thereafter, on January 13, 2004, the court vacated the final judgment as to defendant Lents, who by then appeared *pro se*, in order to permit this defendant an extended period of time within which to file objections to the Magistrate's Report & Recommendation in light of questions raised respecting his receipt of the Magistrate's Report & Recommendation as well as the Final Judgment of the court adopting that report and entering a permanent injunction and order of disgorgement against him. [DE# 208]. The court has now received the verified objections and memorandum of defendant Joseph Lents filed January 18, 2004 in opposition to the Magistrate Judge's August 4, 2003 Report & Recommendation [DE #209], as well as the SEC's response to Lents' objections filed January 30, 2004 [DE# 210].

The court has carefully reviewed the objections of defendants Lents, which focus exclusively on a challenge to the reference of the motion for summary judgment to Magistrate Judge Frank Lynch for a report & recommendation, and the authority of the Magistrate Judge to proceed upon that referral without the express or implied consent of defendant Lents or his then counsel.

Pursuant to 28 U.S.C. § 636(b)(1)(C), the court has made a *de novo* determination with respect to those portions of the report to which objection has been lodged. Having done so, the court finds the defendant's challenges to the form of the referral order and the authority of the Magistrate Judge to proceed upon the reference to be without merit, and accordingly overrules those objections. The court further finds the resolution of the issues as to defendant Lents as recommended by Magistrate Judge Lynch to be sound and well-reasoned, and shall accordingly adopt those recommendations here.

It is therefore **ORDERED** and **ADJUDGED**:

1. Magistrate Judge Lynch's Report and Recommendation on plaintiff's motion for summary judgment [DE #178] is hereby **ADOPTED** and **INCORPORATED** in full as to defendant Lents.
2. Plaintiff's Motion for Summary Judgment including entry of Permanent Injunction and Other Relief [DE # 113] is **GRANTED** as to defendant Joseph L. Lents.

The defendant **JOSEPH L. LENTS (LENTS)**, his agents, servants, employees, attorneys and all persons in active concert or participation with them, and each of them are hereby **PERMANENTLY RESTRAINED AND ENJOINED** from violating Section 5 of the Securities Act of 1933 (Securities Act) [15 U.S.C. § 77e] by directly or indirectly, in the absence of any applicable exemption:

- (a) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell a security through the use or medium of any prospectus or otherwise, unless a registration statement is in effect as to such security;
- (b) carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any security for the purpose of sale or for delivery after sale, unless a registration statement is in effect as to such security.
- (c) 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 through the use or medium of any prospectus or otherwise any security if there is no registration statement filed with the Commission as to such security, or, in the event a registration statement has been filed, in the event the statement is the subject of a refusal order or stop order or a public proceeding of examination under Section 8 of the Securities Act [15 U.S.C. §77 h].

4. The defendant **LENTS**, his agents, servants, employees attorneys and all persons in active concert or participation with them, and each of them are hereby **PERMANENTLY RESTRAINED AND ENJOINED** from violating Section 17 (a) of the Securities Act [15 U.S.C. § 77q(a)] in the offer or sale of any security by using any means or instrument of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly:

- (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 of 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) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

5. The defendant **LENTS** is further liable for **DISGORGEMENT** of **\$101,265.00**, representing all ill gotten gains received by him as a result of the conduct alleged in the Commission's Complaint, plus prejudgment interest in the amount of **\$7,115.64**, for a total of **\$108,380.64**, payable by U.S. postal money order, certified check, bank cashier check or bank money order made payable to the Securities and Exchange Commission within **THIRTY (30) DAYS** from the date of this order.

This payment shall be directed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way Mail Stop 0-3, Alexandria Virginia 22312, under cover of letter identifying **LENTS** as a defendant in this action, which shall be referenced by full case style and number.

6. The defendants **LENTS** is **PERMANENTLY BARRED** from serving as an officer or director of a public company pursuant to section 21 (d)(2) of the Exchange Act. [15 U.S.C. § 78 u(d)(2)].

7. The defendants **LENTS**, his agents, servants, employees attorneys and all persons in active concert or participation with them, and each of them are hereby **PERMANENTLY RESTRAINED AND ENJOINED** from violating, directly or indirectly, or by aiding and abetting, Section 10(b) of the Securities Exchange Act of 1934 (Exchange Act) [15 U. S. C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F. R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (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 of 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) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

8. The defendants **LENTS** is further liable for **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 [15 U.S.C. 77u(d)(3). the amount of which shall be determined by separate order following evidentiary hearing upon due notice and motion by the Commission.

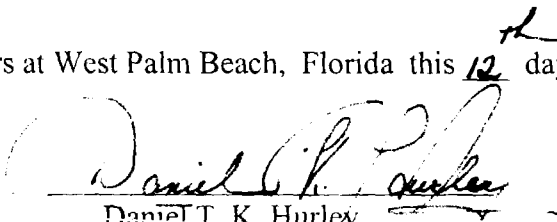
9. The asset freeze effected by this court's prior Order Freezing Assets dated May 20, 2002 and the Stipulated Order of Preliminary Injunction dated June 6, 2002, shall remain in full effect unless modified by this Court.

10. The court shall retain jurisdiction for purposes of enforcing this final order of permanent injunction, disgorgement and civil penalties as well as all prior orders of permanent injunction, disgorgement and civil penalties entered against the other defendants in this cause.

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Order Adopting Magistrate's Report and Recommendation

11. There being nothing further for the court to do in this matter, the Clerk of Court is directed to **CLOSE** this case and terminate any pending motions as **MOOT**.

DONE and **SIGNED** in Chambers at West Palm Beach, Florida this ¹² day of March, 2004.



Daniel T. K. Hurley
United States District Judge

Copies to:

United States Magistrate Judge Frank J. Lynch, Jr.
Anne McKinley, Esq. (for the SEC)
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Kenneth Dunn, Esq. (for defendants Baginski & Electronic Commerce Consultants)
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