

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>SECURITIES AND EXCHANGE COMMISSION,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>KENNETH B. MACQUEEN, MACQUEEN CAPITAL MANAGEMENT CORP., AND THE DIVIDEND, REINVESTMENT FUND, L.L.C.,</b>	)	
	)	
<b>Defendants.</b>	)	

**DOCKETED**  
MAY 11 2004

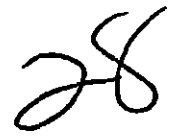
**Case No: 03 C 1423  
Judge Matthew F. Kennelly  
Magistrate Judge Ian H. Levin**

**ORDER OF FINAL JUDGMENT AS TO DEFENDANTS**

The Plaintiff Securities and Exchange Commission ("Commission") filed a Complaint, and the Defendants Kenneth B. MacQueen, MacQueen Capital Management and The Dividend Reinvestment Fund, L.L.C. (collectively the "Defendants") have: entered general appearances; consented to the Court's jurisdiction over Defendants and the subject matter of this action; admitted the allegations of the Complaint; consented to the entry of an Order of Permanent Injunction; waived any right to appeal from the Order of Permanent Injunction; waived findings of fact and conclusions of law; and consented to this Order of Final Judgment.

**I.**

**IT IS ORDERED** that Defendants, their agents, servants, employees, attorneys, assigns, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are 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 the use of any means or instruments of transportation or communication in interstate commerce or by 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.

**II.**

**IT IS ORDERED** that Defendants, their agents, servants, employees, attorneys, assigns, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, 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], 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 make any untrue statement of a material fact or to 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

- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

**III.**

**IT IS ORDERED** that Defendants, their agents, servants, employees, attorneys, assigns, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 206(1) of the Investment Advisers Act of 1940 (“Advisers Act”) [15 U.S.C. § 80b-6(1)] by using the mails or means or instrumentalities of interstate commerce, directly or indirectly, to employ any device, scheme, or artifice to defraud any client or prospective client.

**IV.**

**IT IS ORDERED** that Defendants, their agents, servants, employees, attorneys, assigns, and all persons in active concert or participation with them who receive actual notice of this Order of Permanent Injunction by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 206(2) of the Advisers Act [15 U.S.C. § 80b-6(2)], by using any means or instrumentality of interstate commerce, directly or indirectly, to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

**V.**

**IT IS ORDERED** that Defendants are liable for disgorgement of \$4,217,296, representing profits gained as a result of the conduct alleged in the Complaint, and prejudgment

interest thereon. Based on Kenneth B. MacQueen's ("MacQueen") sworn representations in his Statement of Financial Condition dated February 11, 2004, and other documents and information submitted to the Commission, however, the Court is not ordering Defendants to pay a civil penalty and payment of the disgorgement and pre-judgment interest thereon is waived. The determination not to impose a civil penalty and to waive payment of the disgorgement and pre-judgment interest is contingent upon the accuracy and completeness of MacQueen's Statement of Financial Condition. If at any time following the entry of this Final Judgment the Commission obtains information indicating that MacQueen'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 Defendants, petition the Court for an order requiring Defendants to pay the unpaid portion of the disgorgement, pre-judgment and post-judgment interest thereon, and the maximum civil penalty allowable under the law. In connection with any such petition, the only issue shall be whether the financial information provided by MacQueen was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made. In its petition, the Commission may move this Court to consider all available remedies, including, but not limited to, ordering Defendants to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of this Final Judgment. The Commission may also request additional discovery. Defendants may not, by way of defense to such petition: (1) challenge the validity of this Consent or the Final Judgment; (2) contest the allegations in the Complaint filed by the Commission; (3) assert that payment of disgorgement, pre-judgment and post-judgment interest

or a civil penalty should not be ordered; (4) contest the amount of disgorgement and pre-judgment and post-judgment interest; (5) contest the imposition of the maximum civil penalty allowable under the law; or (6) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

**VI.**

**IT IS ORDERED** that the Consents and Stipulations of Defendants dated July 8, 2003 and February 11, 2004 are incorporated herein with the same force and effect as if fully set forth herein, and that Defendants shall comply with all of the undertakings and agreements set forth therein.


**VII.**

**IT IS ORDERED** that this Court shall retain jurisdiction of this matter for all purposes, including but not limited to implementing and carrying out the terms of all orders and decrees which may be entered herein, enforcing the Order of Permanent Injunction, and to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

**VIII.**

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Order of Final Judgment forthwith and without further notice.

Dated: 7 May, 2004

  
HONORABLE MATTHEW F. KENNELLY  
UNITED STATES DISTRICT JUDGE