

John C. Coughenour



03-CV-02646-JGM

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SECURITIES AND EXCHANGE COMMISSION,

Case No. C03-2646C

Plaintiff,

FINAL JUDGMENT AS TO DEFENDANT  
TERRY RICHARD MARTIN

v.

TERRY RICHARD MARTIN, SILVER LEGACY  
CORPORATION, SILVER SOUND LLC, JONAS  
DAVID SMITH, MICHAEL W. MCCALL,  
CHARLES J. TULL, IBIS SECURITIES LLC,  
KENNETH R. MARTIN, GEORGE TAMURA,  
GOLDMAN SIG INC., EDWARD L. TEZAK,  
SIGNAL MORTGAGE, INC., and JOHN H.  
WHITE,

Defendants.

Plaintiff Securities and Exchange Commission ("Commission") has filed a Complaint in this action. Defendant Terry Richard Martin ("Martin"), having entered a general appearance, has submitted a Consent of Terry Richard Martin to Entry Of Final Judgment ("Consent"), which was filed simultaneously with this Final Judgment As To Defendant Terry Richard Martin ("Final Judgment"). In the Consent, Martin admits the jurisdiction of this Court over him and over the subject matter of this action, admits that he was fully advised and informed of the right to a judicial determination of this matter, waived findings of fact and conclusions of law as provided by Rule 52 of the Federal Rules of Civil Procedure, consented to the entry of this Final Judgment, without admitting or denying any of the allegations in the Complaint except as set forth in the Consent, and waived notice of hearing upon the entry of this Final Judgment. The Court, being fully advised in the premises, orders as follows.

JUDGMENT AS TO TERRY MARTIN  
SEC v. Martin, et al, C03-2646C

Securities and Exchange Commission  
44 Montgomery Street, 26<sup>th</sup> Floor  
San Francisco, California 94104  
(415) 705-2500

I.

1  
2 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Martin and his agents,  
3 servants, employees, and all persons acting in concert or participation with any of them, who  
4 receive actual notice of this Final Judgment, by personal service or otherwise, and each of them,  
5 are permanently enjoined and restrained from, directly or indirectly, violating Section 10(b) of  
6 the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 [17  
7 C.F.R. § 240.10b-5] thereunder by using any means or instrumentality of interstate commerce, or  
8 of the mails, or of any facility of any national securities exchange in connection with the  
9 purchase or sale of any security:

- 10 1. to employ any device, scheme, or artifice to defraud;  
11 2. to make any untrue statement of a material fact or omitting to state a material fact  
12 necessary in order to make the statements made, in the light of the circumstances  
13 under which they were made, not misleading; or  
14 3. to engage in any act, practice, or course of business which operates or would operate  
15 as a fraud or deceit upon any person.

16 II.

17 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Martin and his agents,  
18 servants, employees, and all persons acting in concert or participation with any of them, who  
19 receive actual notice of this Final Judgment, by personal service or otherwise, and each of them,  
20 are permanently enjoined and restrained from violating Section 17(a) of the Securities Act [15  
21 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or instruments of  
22 transportation or communication in interstate commerce or by use of the mails, directly or  
23 indirectly:

- 24 1. to employ any device, scheme, or artifice to defraud;  
25 2. to obtain money or property by means of any untrue statement of a material fact  
26 or any omission of a material fact necessary in order to make the statements  
27 made, in light of the circumstances under which they were made, not misleading;

28 or

1 3. to engage in any transaction, practice, or course of business which operates or  
2 would operate as a fraud or deceit upon the purchaser.

3 III.

4 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Martin is  
5 liable for disgorgement of \$1,240,000, representing benefits illegally obtained as a result of the  
6 conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of  
7 \$948,250.13, for a total of \$2,188,250.13. Martin shall pay this amount to the Clerk of this  
8 Court, together with a cover letter identifying his name as a defendant in this action; setting forth  
9 the title and civil action number of this action and the name of this Court; and specifying that  
10 payment is made pursuant to this Final Judgment. Martin shall simultaneously transmit  
11 photocopies of such payment and letter to the Commission's counsel in this action. By making  
12 this payment, Martin relinquishes all legal and equitable right, title, and interest in such funds,  
13 and no part of the funds shall be returned to Martin. The Clerk shall deposit the funds into an  
14 interest bearing account with the Court Registry Investment System ("CRIS") or any other type  
15 of interest bearing account that is utilized by the Court. These funds, together with any interest  
16 and income earned thereon (collectively, the "Fund"), shall be held in the interest bearing  
17 account until further order of the Court. In accordance with 28 U.S.C. § 1914 and the guidelines  
18 set by the Director of the Administrative Office of the United States Courts, the Clerk is  
19 directed, without further order of this Court, to deduct from the income earned on the money in  
20 the Fund a fee equal to ten percent of the income earned on the Fund. Such fee shall not exceed  
21 that authorized by the Judicial Conference of the United States. The Commission may propose a  
22 plan to distribute the Fund subject to the Court's approval. Martin shall pay post-judgment  
23 interest on any delinquent amounts pursuant to 28 USC § 1961.

24 IV.

25 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the provisions of  
26 Martin's Consent filed concurrently with this Judgment are incorporated by this reference, that  
27 Martin shall comply with the Consent and that a breach of the terms of the Consent therefore  
28 shall constitute a failure to adhere to the terms of this Judgment.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

VII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction over this action for all purposes, including to implement and enforce the terms of this Order and other orders and decrees which may be entered, to determine the Commission's requests for other equitable relief and to grant such other relief as this Court may deem necessary and just.

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 Final Judgment forthwith and without further notice.

Dated: May 27, 2010

  
United States District Judge