

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

UNITED STATES SECURITIES AND ]  
EXCHANGE COMMISSION, ]  
] Plaintiff, ]  
] vs. ] CV-04-CO-00686-S  
] ]  
TIMOTHY R. HEYMAN, *et al.* ]  
] Defendants. ]

## ORDER

The Court has for consideration Plaintiff Securities and Exchange Commission's Opposed Motion for Monetary Relief Against Timothy R. Heyman and Heyman International, Inc. (Doc. 77), filed on August 31, 2006.

Heyman and Heyman International's liability for violations of Sections 5(a), 5(c), and 17(a) of the Securities Act and Section 10(b) of the Exchange Act, as well as Rule 10b-5 thereunder, is not in dispute. (Docs. 61, p. 5; 62, p. 5.) This Court's orders of permanent injunction against both Timothy Heyman and Heyman International provide that the amounts of disgorgement, plus prejudgment interest thereon, and the civil penalty shall

be determined by this Court upon motion by the Commission. *Id.* Furthermore, pursuant to the orders of permanent injunction, to which Heyman and Heyman International consented, they may not contest the allegations of the Commissioner's Complaint. *Id.* at 5-6.

Heyman and Heyman International are ordered to pay, jointly and severally, disgorgement in the amount of \$3,616,993, which represents the amount of investor funds that they illegally obtained less the amount of investor funds that they returned to investors as "interest" payments. (See Doc. 77, p. 10.) Additionally, Heyman and Heyman International are ordered to pay prejudgment interest in the amount of \$824,012, as calculated from June 7, 2001, the earliest date on which Heyman received investor funds.

Plaintiff has also moved for third-tier civil penalties under 15 U.S.C. § 77t(d)(2)(C). Because the Court is of the opinion that Heyman and Heyman International engaged in conduct which "involved fraud, deceit, manipulation or deliberate or reckless disregard of a regulatory requirement [and] directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons," third-tier civil

penalties will be imposed on Heyman and Heyman International. The maximum third-tier civil penalty as adjusted for inflation under 17 C.F.R. § 201.1002 is \$120,000 for an individual and \$600,000 for an entity. Heyman and Heyman International's violations involved the reckless disregard of the antifraud and registration provisions of the federal securities laws, and these violations directly resulted in substantial losses to the investors of the Heyman International Depository Agreements. Over the course of at least three years, Heyman and Heyman International defrauded investors by promising that their funds would be safely invested, while using the funds to support Heyman's personal lifestyle and make monthly "interest" payments to previous investors. Moreover, many of the defrauded investors were elderly and had limited experience with securities and investments. Most importantly, investors in the Heyman International Depository Agreements stand to lose more than \$3,600,000 as a result of Heyman and Heyman International's fraudulent scheme. Therefore, the Court orders that Heyman and Heyman International pay civil penalties in the maximum amount under the statute and regulations.

For these reasons, Plaintiff's motion (Doc. 77) is GRANTED, and it is ORDERED that Heyman and Heyman International pay, jointly and severally, disgorgement and prejudgment interest in the amount of \$4,441,005. Heyman is ORDERED to pay civil penalties in the amount of \$120,000, and Heyman International is ORDERED to pay civil penalties in the amount of \$600,000.

Done this 20th day of September 2006.



L. SCOTT COOGLER  
UNITED STATES DISTRICT JUDGE  
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