

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS  
WICHITA DIVISION**

**SECURITIES AND EXCHANGE COMMISSION,**

Plaintiff,

vs.

Civil Action No.  
08-cv-1159-JTM

**MICHAEL J. MCNAUL, II,  
ET AL,**

Defendants,

And

**CONSOLIDATED MANAGEMENT GROUP, LLC,  
ET AL,**

Relief Defendants.

**INTERLOCUTORY JUDGMENT GRANTING PERMANENT INJUNCTION  
AND DISGORGEMENT AS TO DEFENDANT MICHAEL J. MCNAUL, II**

The Securities and Exchange Commission filed a Complaint on May 28, 2008 against Defendant Michael J. McNaul, II (Doc. 1). The Court entered an Agreed Judgment of Permanent Injunction as to Defendant Michael McNaul on June 9, 2008. (Doc. 48). In connection with that injunction, McNaul entered a general appearance, consented to the Court's jurisdiction over him and over the subject matter of this action, consented to entry of the injunctive relief without admitting or denying the allegations of the Complaint except as to jurisdiction, waived findings of fact and conclusions of law and waived any right to appeal from the injunction. (Id.)

The Commission moved for disgorgement, prejudgment interest and civil penalties against McNaul on February 2, 2010 (the "Motion"). (Doc. 716). McNaul and the Commission filed several additional briefs on the issues of monetary relief raised by the Motion. (Docs. 723, 743, 744 and 767). The Court conducted a hearing on the Motion on October 11, 2011. The Court hereby enters its Interlocutory Judgment Granting Permanent Injunctive Relief and Disgorgement as to Michael J. McNaul, II (the "Interlocutory Judgment"). The Interlocutory Judgment repeats the injunctive decrees from the Agreed Judgment of Permanent Injunction as to Defendant Michael McNaul entered, as noted above, on June 9, 2008, orders McNaul to pay disgorgement of \$5,297,537.56, and defers ruling on the Commission's claims for prejudgment interest and civil money penalties. (Doc. 48).

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, 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 (the "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 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.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, 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 of 1933 (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.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant

and Defendant's agents, servants, employees, attorneys, 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 5 of the Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any applicable exemption:

- (a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;
- (b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or
- (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, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Michael J. McNaul, II should be held liable for disgorgement of \$5,297,537.56, representing

profits gained as a result of the conduct alleged in the Complaint. Defendant shall satisfy this obligation by paying \$5,297,537.56 within 14 days after entry of this Interlocutory Judgment to the Court-appointed Receiver in this matter, Mr. Edward J. Nazar, Redmond & Nazar, L.L.P., 245 N. Waco, Suite 402, Wichita, Kansas, 67202, together with a cover letter identifying Michael J. McNaul, II as defendant in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Interlocutory Judgment. Defendant shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action. By making this payment, Defendant relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Defendant. The Receiver shall deposit the funds into an interest bearing account and held pending further Court order for eventual distribution of investors.

V.

The Court hereby defers ruling on the Commission's claims for prejudgment interest and civil money penalties. Those claims are held in abeyance pending further Order of the Court.

VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

Dated: October 13, 2011

s/ J. Thomas Marten  
UNITED STATES DISTRICT JUDGE