

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 10-20475-CIV-COOKE/BANDSTRA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff

vs.

STEVEN SCOPPETUOLO, et al.,

Defendants.

**JUDGMENT OF PERMANENT INJUNCTION AND
OTHER RELIEF AS TO DEFENDANT ROBERT TOCCI**

Plaintiff Securities and Exchange Commission commenced this action by filing its Complaint against, among others, Defendant Robert Tocci. In its Complaint, the Commission sought, among other relief against Tocci, a permanent injunction to prohibit violations of Section 10(b) and Rule 10b-5 of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5, and Section 17(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. §§ 77q(a); disgorgement and prejudgment interest; and a civil money penalty pursuant to Section 21A of the Exchange Act, 15 U.S.C. § 78u-1, and Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d).

Tocci has entered a general appearance and has consented to the Court’s jurisdiction over him and the subject matter of this action, consented to entry of this Judgment of Permanent Injunction and Other Relief (“Judgment”) 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 Judgment.

I.

SECTION 10(b) OF THE EXCHANGE ACT AND RULE 10b-5 THEREUNDER

IT IS HEREBY ORDERED AND ADJUDGED that Tocci, his officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of 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.

SECTION 17(a) OF THE SECURITIES ACT

IT IS HEREBY FURTHER ORDERED AND ADJUDGED that Tocci and his 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, 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.

DISGORGEMENT AND PREJUDGMENT INTEREST

IT IS FURTHER ORDERED AND ADJUDGED that Tocci is liable for disgorgement of \$295,976, representing profits gained and losses avoided as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$40,506.92, for a total of \$336,482.92. Tocci shall satisfy this obligation by paying \$336,482.92 within 60 days after entry of this Judgment by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. The payment shall be delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be accompanied by a letter identifying Tocci as a 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 Judgment. Tocci shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

IV.

CIVIL PENALTY

IT IS FURTHER ORDERED AND ADJUDGED that Tocci shall pay a civil penalty pursuant to Section 21A of the Exchange Act, 15 U.S.C. § 78u-1, and Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d). The Court shall determine the amount of the civil penalty upon motion of the Commission. In connection with the Commission's motion for a civil penalty, and at any hearing held on such a motion: (a) Tocci will be precluded from arguing that he did not violate the federal securities laws as alleged in the Complaint; (b) Tocci may not challenge the validity of the Consent or this Judgment; (c) solely for the purposes of such motion, the allegations of the Complaint shall be accepted as and deemed true by the Court; and (d) the Court may determine the issues raised in the motion on the basis of affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence, without regard to the standards for summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. In connection with the Commission's motion for a civil penalty, the parties may take discovery, including discovery from appropriate non-parties.

V.

INCORPORATION OF TOCCI'S CONSENT

IT IS FURTHER ORDERED AND ADJUDGED that the Consent of Robert Tocci is incorporated herein with the same force and effect as if fully set forth herein, and that Tocci shall comply with all of the undertakings and agreements set forth therein.

VI.

RETENTION OF JURISDICTION

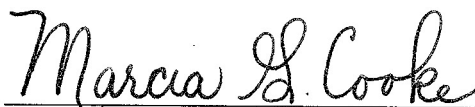
IT IS FURTHER ORDERED AND ADJUDGED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Judgment.

VII.

CERTIFICATION UNDER RULE 54(b)

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 Judgment forthwith and without further notice and *administratively terminate* Robert Tocci as a party defendant.

DONE and ORDERED in chambers at Miami, Florida this 31st day of March 2011.



MARCIA G. COOKE

United States District Judge

Copies furnished to:
Ted E. Bandstra, U.S. Magistrate Judge
Counsel of Record