

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CIV-ZLOCH

96-6425

CIVIL ACTION NO.

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

DAN STUART,

Defendant.

MAGISTRATE  
SELTZER

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

It appears to Plaintiff, Securities and Exchange Commission ("Commission"), and it alleges that:

1. Defendant Dan Stuart ("Stuart"), directly and indirectly, has engaged, and unless enjoined will engage, in transactions, acts, practices and courses of business that have constituted and will constitute violations of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. 77e(a), 77e(c) and 77q(a)] and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78j(b)] and Rule 10b-5 [17 C.F.R. 240.10b-5] promulgated thereunder.

2. Pursuant to authority granted by Sections 10(b) and 23(a) of the Exchange Act [15 U.S.C. 78j(b) and 78w(a)], the Commission has promulgated Rule 10b-5 [17 C.F.R. 240.10b-5], which rule was in effect at all times relevant herein and is now in effect.

JURISDICTION AND VENUE

3. The Commission brings this action pursuant to Sections 20(b) and 20(d) of the Securities Act [15 U.S.C. 77t(b) and 77t(d)] and Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. 78u(d)]

*Handwritten initials/signature*

and 78u(e)] to enjoin the defendant from engaging in the transactions, acts, practices and courses of business alleged in this complaint, and transactions, acts, practices and courses of business of similar purport and object, for disgorgement of illegally obtained funds and other equitable relief, and for civil money penalties.

4. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d) and 22(a) of the Securities Act [15 U.S.C. 77t(b), 77t(d) and 77v(a)] and Sections 21(d), 21(e) and 27 of the Exchange Act [15 U.S.C. 78u(d), 78u(e) and 78aa].

5. The defendant, directly and indirectly, made use of the mails, the means and instruments of transportation and communication in interstate commerce, and the means and instrumentalities of interstate commerce in connection with the transactions, acts, practices and courses of business alleged in this complaint.

6. Certain of the transactions, acts, practices and courses of business constituting violations of the Securities Act and the Exchange Act occurred in the Southern District of Florida.

7. The defendant, unless restrained and enjoined by this Court, will continue to engage in the transactions, acts, practices and courses of business alleged in this complaint, and in transactions, acts, practices and courses of business of similar purport and object.

DEFENDANT

8. Dan Stuart resides in or around New York, New York. Stuart was the president of TransAmerica Wireless Systems, Inc. ("TransAmerica").

ENTITIES INVOLVED

9. TransAmerica Wireless Systems, Inc. is a Florida corporation formerly with offices in Fort Lauderdale, Florida. TransAmerica was purportedly in the business of developing wireless cable television systems. TransAmerica operated telephone boiler rooms in Fort Lauderdale and elsewhere in Florida. TransAmerica is currently under the control of a receiver.

10. Intercontinental Telecommunications Corporation is a Florida corporation formerly with offices in Fort Lauderdale, Florida. ITC was purportedly in the business of developing wireless cable television systems. ITC operated telephone boiler rooms in Fort Lauderdale and Deerfield, Florida and Houston, Texas. ITC was formed by the principals of TransAmerica and is currently under the control of a receiver.

11. Danny Sterk ("Sterk") resides in or around Coral Springs, Florida. Until the appointment of the receiver, Sterk was chief executive officer of TransAmerica and a principal of ITC. On March 2, 1992, the Federal Trade Commission ("FTC") filed suit against Sterk (and others) in the United States District Court for the District of Nevada alleging violations of Section 5 of the Federal Trade Commission Act, which prohibits unfair or deceptive acts or practices. According to the Complaint, Sterk misrepresented and

failed to disclose material facts in connection with the offering and sale of application preparation and filing services for obtaining wireless cable television licenses issued by the Federal Communications Commission ("FCC") by lottery.

On March 26, 1992, in connection with the FTC's action, the United States District Court for the District of Nevada entered a preliminary injunction and partial asset freeze against Sterk, both of which remain in effect. On November 28, 1995 a permanent injunction was entered against Sterk in SEC v. Danny Sterk et al., Civil Action No. 94-6805-CIV-Gonzalez, a case involving the same alleged activity as this complaint.

#### OVERVIEW OF THE SCHEME

12. Between July 1993 and May 1994, TransAmerica, at the direction of Stuart and others, utilized television infomercials, mailings and telephone boiler rooms to sell interests in two purported general partnerships. One general partnership, the TransAmerica Wireless Associates General Partnership-Hot Springs, Arkansas ("Hot Springs Partnership"), was organized to develop a wireless television system in Hot Springs, Arkansas. The other general partnership, the TransAmerica Wireless Associates General Partnership-Clarksville, Tennessee ("Clarksville Partnership"), was organized to develop a wireless television system in Clarksville, Tennessee.

13. Between May 1994 and August 1994, ITC and TransAmerica, at the direction of Stuart and others, utilized television infomercials, mailings and telephone boiler rooms to offer and sell

units in a purported general partnership, the Intercontinental Telecommunications Corporation General Partnership-Valdosta, Georgia, ("Valdosta Partnership") organized to develop a wireless television system in Valdosta, Georgia.

14. The general partnerships were purportedly formed to develop multi-channel microwave distribution service ("MMDS") wireless television systems, also known as microwave pay television and wireless cable television. Offering materials distributed to prospective investors compared the investment opportunity to investment in the initial stages of broadcast television or cable TV. As detailed below, agents of TransAmerica and ITC, acting at the direction of Stuart and others, misrepresented or failed to disclose material facts in connection with these offers and sales. Among other things, TransAmerica and ITC claimed to be negotiating for FCC licenses that they were not negotiating for, made outlandish predictions of profits for investors, and failed to disclose an FTC suit against Sterk and the pending injunction.

THE GENERAL PARTNERSHIP INTERESTS ARE SECURITIES

15. The partnership agreements for each general partnership automatically adopt a Mandatory Services Agreement between the partnership and the promoting entity, TransAmerica or ITC.

16. The Mandatory Services Agreement required the partnership to pay to TransAmerica or ITC a non-refundable fee equal to more than two thirds of the funds raised in the offering.

17. In consideration for the non-refundable fee, TransAmerica or ITC was to perform certain services vital to the success of the

partnership system, and was to transfer to the partnership an interest in specified wireless cable television channels. Among other things, ITC and TransAmerica represented that they would purchase the equipment for the system and coordinate construction of the facilities.

18. The Mandatory Services Agreement had no termination provisions and could not be modified without the approval of TransAmerica or ITC.

19. The Mandatory Services Agreement neutralized the partners' power to exercise ultimate control over important tasks critical to the development of the wireless systems.

20. Most, if not all, investors in the general partnerships had no experience in owning or operating a wireless cable television system. The offering materials provided "**No previous experience in television or in the communication industry is required because Applicants may engage professional consultants and managers to operate the system under their control.**" Most investors reside far from the location of the wireless system in which they invested.

21. The investors were not required to become actively involved in the operation or management of the wireless systems. Prospective investors were told that they could be silent partners.

22. The offering documents touted the expertise of TransAmerica or ITC in the wireless cable television industry. These representations of expertise induced investors inexperienced in wireless cable television to invest in the general partnerships

in hopes of profits to be derived from the entrepreneurial and managerial efforts of TransAmerica or ITC.

23. The documents sent to investors contained a letter from an attorney, claiming to be general counsel for the partnership, which essentially recommended that the partnership should be converted to a corporation to limit the partners' exposure to additional liability.

24. As a result of the mandatory service agreements, the lack of experience on the part of investors, the investor's reliance on the supposed experience of the promoters, and the large number and geographical dispersion of investors, investors were unable to effectively participate in the management of the enterprises. Accordingly, the general partnership interests offered and sold by TransAmerica and ITC were investment contracts and therefore were securities as that term is defined by Sections 2(1) of the Securities Act [15 U.S.C. 77b(1)] and 3(a)(10) of the Exchange Act [15 U.S.C. 78c(a)(10)]. The shares of stock into which the partnership interests will be converted are also securities. No registration statement has ever been filed or in effect with the Commission in connection with these offerings of securities and no registration exemption is applicable.

THE HOT SPRINGS PARTNERSHIP

25. In or about July 1993, TransAmerica commenced an offering of interests in the Hot Springs Partnership, purportedly a Florida general partnership.

26. As part of this offering, TransAmerica, at the direction of Stuart and others, solicited interest in the offering by advertisements sent through the mail and by televised "infomercials." TransAmerica, at the direction of Stuart and others, utilized telephone boiler rooms to solicit investors in several states. As part of the solicitation of investments, TransAmerica sent documents via express mail services containing information about the investment to investors in several states. The telephone calls and mailings described above continued through at least November 1993.

27. The disclosure documents sent to prospective investors ("offering materials") claimed that TransAmerica and its principals had extensive experience in the development of the wireless cable industry and in acquiring FCC licenses and preparing FCC license applications on TransAmerica's own behalf and on behalf of others. No mention was made of the fact that Sterk had been enjoined in an action brought by the FTC for fraudulent acts in connection with such services. The offering materials also described wireless systems as "cash cows" and stated that projected rates of return on wireless systems in the selected markets were above 70 per cent per year.



28. The offering materials sent to investors indicated that TransAmerica intended to sell 200 units in the Hot Springs Partnership, at \$15,000 per unit, for a total offering of \$3,000,000. Of this amount, \$2.3 million was to go to TransAmerica pursuant to the Mandatory Services Agreement.

29. On or about November 30, 1993, TransAmerica mailed correspondence to investors in the Hot Springs Partnership which suggested that all 200 units in the partnership had been sold.

30. At the subsequent initial meeting of the partners, it was resolved that the partnership would be replaced by a corporation to be incorporated in the State of Florida. On or about February 18, 1994, the partnership was replaced by a corporation named Skyview Wireless Cable, Inc., and the partners were issued stock in the new corporation.

MISREPRESENTATIONS AND OMISSIONS IN CONNECTION WITH  
THE HOT SPRINGS PARTNERSHIP

31. Stuart and others, in connection with the offer and sale of interests in the Hot Springs Partnership, directly and indirectly, knowingly made material misrepresentations to investors and omitted to state facts necessary to make statements to investors not misleading, including, but not limited to, the following:

a. Stuart and others, in the offering materials and through verbal telephone solicitations, made general statements concerning the value of MMDS licenses, but failed to disclose to investors and prospective investors the profit made by TransAmerica or its

affiliates on the sale of a 75% interest in the Hot Springs channels to the Hot Springs partnership.

b. Stuart and others, in the offering materials and otherwise, touted the experience of TransAmerica and its principals in the wireless cable industry, but failed to disclose to investors the FTC's suit against Sterk, and the outstanding preliminary injunction and partial asset freeze, which resulted from Sterk's previous activities in the field of wireless cable television.

c. Stuart and others failed to provide to investors and prospective investors information concerning the financial condition of TransAmerica.

d. Stuart and others, in the offering materials and otherwise, made misleading statements concerning expected profits in selected markets, without disclosing that they had no reasonable basis for projecting such profits for the Hot Springs Partnership and without disclosing contingencies which would preclude such profits.

e. Stuart and others failed to disclose to prospective investors the substantial commissions earned by their sales representatives and agents on sales of the partnership interests, which were paid out of the offering proceeds.

THE CLARKSVILLE PARTNERSHIP

32. In or about October 1993, TransAmerica commenced an offering of interests in the Clarksville Partnership, purportedly a Florida general partnership.

33. In connection with this offering, TransAmerica sales representatives, at the direction of Stuart and others, solicited interest in the offering by television infomercials and by advertisements sent through the mail. TransAmerica sales representatives, at Stuart's direction, also telephoned investors in several states and solicited investments in the Clarksville Partnership. Also, as part of the solicitation of investments, TransAmerica sent documents containing information about the investment to prospective investors in several states. The telephone calls and mailings described above continued through late May 1994.

35. The offering materials claimed that TransAmerica and its principals had extensive experience in the development of the wireless cable industry and in acquiring FCC licenses and preparing FCC license applications on TransAmerica's behalf and on behalf of others. No mention was made of the fact that Sterk had been enjoined in an action brought by the FTC for fraudulent acts in connection with such services. The offering materials also described wireless systems as "cash cows" and stated that projected rates of return on wireless systems in the selected markets were above 70 per cent per year.

36. The offering materials sent to investors indicated that TransAmerica intended to sell 400 units in the Clarksville partnership, at \$15,000 per unit, for a total offering of \$6,000,000. Of this amount, \$4.6 million went to TransAmerica pursuant to the Mandatory Services Agreement.

37. In or about middle to late May 1994, TransAmerica mailed correspondence to investors which indicated that all 400 units in the partnership had been sold.

38. The documents sent to investors contained a letter from an attorney, claiming to be general counsel for the partnership, which essentially recommended that the partnership be converted to a corporation to limit the partners' exposure to additional liability.

39. Prior to the initial meeting of the partners, TransAmerica sent proxy materials to investors. The proxy materials indicated that the sole issue for selecting a business structure for the Clarksville system was the protection from additional liability.

40. At the initial meeting of the partners, it was resolved that the partnership would be replaced by a corporation to be named "Future Vision Wireless Cable, Inc."

MISREPRESENTATIONS AND OMISSIONS OF MATERIAL FACT  
IN CONNECTION WITH THE CLARKSVILLE OFFERING

41. Stuart and TransAmerica sales representatives, acting at the direction of Stuart and others, in connection with the offer and sale of interests in the Clarksville Partnership, directly and indirectly, knowingly made material misrepresentations to investors and omitted to state facts necessary to make their statements to investors not misleading, including, but not limited to, the following:

a. In the offering materials and otherwise, Stuart and others falsely represented in the documents sent to investors that

TransAmerica was "negotiating and engineering" for the MMDS E and F Groups (8 channels) and the ITFS C-Group (4 channels) wireless cable television channels in Clarksville. In fact, the owner of the rights to the 8 MMDS E and F channels repeatedly informed Stuart that it was not interested in selling the rights to those channels. Stuart and TransAmerica also failed to disclose to investors and prospective investors that TransAmerica had no rights to the ITFS C-Group licenses and that the FCC had imposed a freeze on the filing of applications for ITFS C-Group licenses, which freeze was to remain in effect indefinitely.

b. Stuart and others falsely represented to investors that the Clarksville system would have 33 channels.

c. Stuart and others, in the offering materials and otherwise, made general statements concerning the value of a MMDS license, but failed to disclose to investors that in November 1993 Sterk or an entity controlled by Sterk had acquired the rights to TransAmerica's 18 wireless cable television channels in Clarksville for only \$125,000 plus a brokerage fee.

d. Stuart and others failed to disclose to investors and prospective investors the FTC's suit against Sterk, and the outstanding preliminary injunction and partial asset freeze, which resulted from Sterk's previous activities in the field of wireless cable television.

e. Stuart and others, in the offering materials and otherwise, represented to investors that they could make exorbitant profits from the investment. Investors were told that they could

make approximately \$10,000 per year per unit and could make as much as \$140,000 per unit from the sale of the system. There was no reasonable basis for these representations. Stuart and others failed to disclose various contingencies which would make such returns impossible.

f. Stuart and others failed to disclose the substantial commissions paid to TransAmerica sales representatives and agents out of the offering proceeds in connection with the sales of the general partnership interests.

THE VALDOSTA PARTNERSHIP

42. In or about late May 1994, ITC and TransAmerica, at the direction of Stuart and others, commenced an offering of interests in the Valdosta Partnership, purportedly a Florida general partnership. That offering continued until the appointment of a receiver in August 1994.

43. ITC and TransAmerica, at the direction of Stuart and others, solicited sales of units in the Valdosta Partnership by television infomercials, mailings and interstate telephone calls to prospective investors, followed up by the interstate mailing of written offering materials.

44. The offering materials claimed that ITC and its principals had extensive experience in the development of the wireless cable industry and in acquiring FCC licenses and preparing FCC license applications on ITC's behalf and on behalf of others. No mention was made of the fact that Sterk had been enjoined in an action brought by the FTC for fraudulent acts in connection with

such services. The offering materials also described wireless systems as "cash cows" and stated that projected rates of return on wireless systems in the selected markets are above 70 per cent per year.

44. The offering materials indicated that ITC intended to sell 700 units in the Valdosta partnership, at \$15,000 per unit, for a total offering of \$10,500,000. Of this amount, \$8.4 million was to go to ITC pursuant to the Mandatory Services Agreement.

45. ITC and TransAmerica raised approximately \$3,000,000 from investors in the Valdosta partnership.

MISREPRESENTATIONS AND OMISSIONS OF MATERIAL  
FACTS IN CONNECTION WITH THE VALDOSTA OFFERING

46. Stuart and others, in connection with the offer and sale of interests in the Valdosta partnership, have knowingly, directly and indirectly, made material misrepresentations to investors and have omitted to state facts necessary to make their statements to investors not misleading, including, but not limited to, the following:

a. The offering materials sent to investors represented that ITC is "negotiating" for 12 additional wireless cable television channels in Valdosta. In fact, the 12 specified channels had been issued, and the licensees had leased the licenses to Rural Vision South, Inc. ("Rural Vision"), located in Canyon Lake, Texas. Rural Vision was not negotiating with ITC or anyone else for the sale or lease of the rights to the 12 specified channels.

b. The offering materials sent to investors represented that ITC was "engineering" additional wireless cable television channels

in Valdosta, described as the ITFS A and C-Groups. The offering materials failed to disclose that licenses for these channels had not been issued by the FCC, there were no applications pending for the channels, and the FCC had imposed an indefinite freeze on the filing of applications for ITFS licenses.

c. Stuart and others failed to disclose to investors that in May 1994 Sterk, or an entity controlled by him, acquired the rights to 9 Valdosta channels and other related assets for only \$1,250,000.

d. Stuart and others touted the experience of ITC and its principals but failed to disclose to investors that Sterk is a principal of ITC and failed to disclose to investors the FTC's action against Sterk and the outstanding preliminary injunction and partial asset freeze which resulted from Sterk's previous activities in the field of wireless cable television.

e. Stuart and others failed to disclose the substantial commissions which were paid to ITC salesman and agents out of the offering proceeds.

f. Stuart and others falsely represented that the proposed Valdosta system would have 25 channels. In fact, ITC had no reasonable prospect of obtaining 25 channels for the system.

47. All of the activities described herein occurred within the statute of limitations period applicable to actions for civil penalties. There is no statute of limitations applicable to the other relief sought.



COUNT I

FRAUD

Violations of Section 17(a)(1) of the Securities Act  
[15 U.S.C. 77q(a)(1)]

48. Paragraphs 1 through 47 are hereby realleged and are incorporated herein by reference.

49. From in or about July 1993 through at least August 1994, defendant Stuart, singly and in concert with others, in the offer and sale of securities in the form of general partnership interests, by the use of means and instruments of transportation and communication in interstate commerce and by use of the mails, directly and indirectly, employed devices, schemes and artifices to defraud purchasers of such securities, all as more particularly described in paragraphs 9 through 46 above.

50. Defendant Stuart knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud.

51. By reason of the foregoing, defendant Stuart has violated, is violating, and, unless restrained and enjoined, will continue to violate Section 17(a)(1) of the Securities Act [15 U.S.C. 77q(a)(1)].

COUNT II

FRAUD

Violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act  
[15 U.S.C. 77q(a)(2) and 77q(a)(3)]

52. Paragraphs 1 through 47 are hereby realleged and are incorporated herein by reference.

53. From in or about July 1993 through at least August 1994, defendant Stuart, singly and in concert, in the offer and sale of securities in the form of interests in the Hot Springs Partnership, by use of means and instruments of transportation and communication in interstate commerce and by use of the mails, directly and indirectly:

- (a) obtained money and property by means of untrue statements of material facts and omissions to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and
- (b) engaged in transactions, practices and courses of business which operated and would operate as a fraud and deceit upon the purchasers of such securities,

all as more particularly described in paragraphs 9 through 46 above.

54. By reason of the foregoing, defendant Stuart has violated, is violating, and, unless restrained and enjoined, will continue to violate Sections 17(a) (2) and (3) of the Securities Act [15 U.S.C. 77q(a) (2) and (3)].

COUNT III

FRAUD

Violations of Section 10(b) of the Exchange Act  
[15 U.S.C. 78j(b)] and Rule 10b5 Thereunder [17 C.F.R.  
240.10b5]

55. Paragraphs 1 through 47 are hereby realleged and are incorporated herein by reference.

56. From in or about July 1993 through at least August 1994, defendant Stuart, singly and in concert with others, in connection with the purchase and sale of securities in the form of general partnership interests, by the use of means and instruments of interstate commerce and by use of the mails, directly and indirectly:

- (a) employed devices, schemes, and artifices to defraud;
- (b) made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and
- (c) engaged in acts, practices, and courses of business which operated as a fraud and deceit upon persons, all as more particularly described in paragraphs 9 through 46 above.

57. Said defendant knowingly, intentionally and/or recklessly engaged in the above-described conduct.

58. By reason of the foregoing, defendant Stuart has violated, is violating, and, unless restrained and enjoined will

continue to violate Section 10(b) of the Exchange Act [15 U.S.C. 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. 240.10b-5].

COUNT IV

UNREGISTERED OFFERINGS OF SECURITIES

Violations of Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. 77e(a) and 77e(c)]

59. Paragraphs 1 through 47 are hereby realleged and are incorporated herein by reference.

60. No registration statement has been filed or is in effect with the Commission pursuant to the Securities Act and no exemption from registration exists with respect to the securities and transactions described herein.

61. From a date unknown, but since at least in or about July 1993 through at least August 1994, defendant Stuart, directly and indirectly, singly and in concert, has and, unless enjoined, will continue to:

- a. make use of the means or instruments of transportation or communication in interstate commerce or of the mails to sell securities, described herein as general partnership interests, through the use or medium of a prospectus or otherwise;
- b. carry securities or cause such securities, described herein as general partnership interests, to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or for delivery after sale; and

c. make use of the 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, the securities described herein as general partnership interests, without a registration statement having been filed with the Commission as to such securities.

These acts include, but are not limited to, the activities described in paragraphs 6 through 46 of this complaint.

62. By reason of the foregoing, defendant Stuart, directly and indirectly, singly and in concert, has violated, and unless enjoined, will continue to violate Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. § 77e(a) and 77e(c)].

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Securities and Exchange Commission respectfully prays for:

I.

Findings that defendant Stuart committed the violations alleged herein.

II.

Sections 5(a) and 5(c) of the Securities  
Act [15 U.S.C. 77e(a) and 77e(c)]

A permanent injunction enjoining defendant Stuart, his officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of the order of injunction, and each of them, whether as principals or as aiders and abettors, from directly or indirectly:

- (a) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell, or to offer to buy through the use or medium of any prospectus or otherwise, securities consisting of investment contracts, or any other security, unless and until a registration statement has been filed with the Securities and Exchange Commission as to such securities, or while a registration statement filed with the Securities and Exchange Commission as to such securities is the subject of a refusal order or stop order of the Securities and Exchange Commission or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act of 1933 [15 U.S.C. 77h];
- (b) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell, through the use or medium of any prospectus or otherwise, securities consisting of investment contracts, or any other security, unless a registration statement is in effect with the Securities and Exchange Commission as to such securities; or
- (c) carrying securities consisting of investment contracts, or any other security, or causing them

to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or for delivery after sale, unless and until a registration statement is in effect with the Securities and Exchange Commission as to such securities;

provided, however, that nothing in the foregoing paragraphs (a), (b), or (c) shall apply to any security or transaction which is exempt from the provisions of Section 5 of the Securities Act of 1933 [15 U.S.C. 77e].

III.

Section 17(a) of the Securities  
Act [15 U.S.C. 77q(a)]

A permanent injunction restraining and enjoining defendant Stuart, his officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of the order of injunction, and each of them, whether as principals or as aiders and abettors, in the offer or sale of securities, by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, from, directly or indirectly:

- (a) employing any device, scheme or artifice to defraud;
- (b) obtaining money or property by means of any untrue statement of a material fact or any omission 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) engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon any purchaser of such securities.

IV.

Section 10(b) of the Exchange Act  
[15 U.S.C. 78j(b)] and Rule 10b-5  
Thereunder [17 C.F.R. 240.10b-5]

A permanent injunction restraining and enjoining defendant Stuart, his officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of the order of injunction, and each of them, whether as principals or as aiders and abettors, in connection with the purchase or sale of securities, by the use of any means or instrumentality of interstate commerce or of the mails, from directly or indirectly:

- (a) employing any device, scheme, or artifice to defraud;
- (b) making any untrue statement of a material fact or omitting 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) engaging in any act, practice or course of business which operates or would operate as a fraud or deceit on any person.

V.

Order Requiring Disgorgement  
of Ill-Gotten Gains

An order requiring the disgorgement by defendant Stuart of all ill gotten gains or unjust enrichment with prejudgment interest, to effect the remedial purposes of the federal securities laws.

VI.

Civil Money Penalties

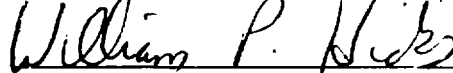
An order pursuant to Section 20(d) of the Securities Act [15 U.S.C. 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. 78u(d)(3)] imposing civil penalties against defendant Stuart.

VII.

Other Relief

Such other and further relief as this Court may deem just, equitable, and appropriate in connection with the enforcement of the federal securities laws and for the protection of investors.

RESPECTFULLY SUBMITTED,



WILLIAM P. HICKS  
District Trial Counsel  
Florida Bar No. 337641  
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Securities and Exchange  
Commission  
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CIVIL COVER SHEET - 96-6425 CIV-2LOCH

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS

U.S. Securities & Exchange Commission

DEFENDANTS

Dan Stuart

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Nassau, N.Y. (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) William P. Hicks U.S. Securities & Exchange Commission 3475 Lenox Road, NE, Suite 1000 Atlanta, GA 30326

ATTORNEYS (IF KNOWN) Allan Lerner Lerner & Pearce 2888 E. Oakland Park Blvd. Ft. Lauderdale, FL 33306-1814

(d) CIRCLE COUNTY WHERE ACTION AROSE:

DADE, MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE, HIGHLANDS

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only)

Table with columns for Plaintiff and Defendant citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business in This State, Incorporated and Principal Place of Business in Another State, Foreign Nation.

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Securities Fraud, Section 17(a) of the Securities Act of 1933, 15 U.S.C. 77q(a), Section 10(b) of the Securities Exchange Act of 1934, and 15 U.S.C. 78j(b). IVa. N/A days estimated (for both sides) to try entire case. SC 116 A.

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY) 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Refiled, 5 Transferred from another district (specify), 6 Multidistrict Litigation, 7 Judge from Magistrate Judgment, Appeal to District

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 235,000 JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See instructions): SEC v. Danny Sterk, et al. JUDGE Gonzales DOCKET NUMBER 94-680T

DATE 4/17/96 SIGNATURE OF ATTORNEY OF RECORD William P. Hicks

UNITED STATES DISTRICT COURT S/P I-2 FOR OFFICE USE ONLY: Receipt No. Amount: Date Paid: M/1fd: