

KATHERINE S. ADDLEMAN  
MICHAEL R. MACPHAIL  
ANDRES R. GUEVARA

Attorneys for Plaintiff  
SECURITIES AND EXCHANGE COMMISSION  
1801 California Street, Suite 4800  
Denver, Colorado 80202  
Telephone: (303) 844-1000  
Fax: (303) 844-1010

99-1968

CIV - GOLD

MAGISTRATE JUDGE  
SIMONTON

UNITED STATES DISTRICT COURT  
for the  
SOUTHERN DISTRICT OF FLORIDA

SECURITIES AND EXCHANGE )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
THE GLOBUS GROUP, INC., )  
CHINA FOOD & BEVERAGE CO., )  
TRANS-GLOBAL HOLDINGS, INC. )  
BRUCE GORCYCA A/K/A ANTHONY )  
DIMARCO, JAMES C. TILTON, )  
and JACQUES VERHAAK, )  
 )  
Defendants. )

CIVIL ACTION NO.

COMPLAINT FOR  
INJUNCTIVE AND  
OTHER EQUITABLE  
RELIEF

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D.C.

Plaintiff Securities and Exchange Commission (the "Commission") alleges:

Summary of the Action

1. From 1997 to at least June 11, 1999, The Globus Group ("Globus") and its principal, convicted felon Bruce Gorcyca a/k/a/ Anthony DiMarco ("DiMarco") disseminated, through two means, false and misleading information about twelve microcap issuers whose stocks are traded on the Bulletin Board (a service of the Nasdaq Stock Market, Inc.) or on the

Nasdaq SmallCap market. Those twelve issuers are: China Food & Beverage Co. (“China Food”); Trans-Global Holdings, Inc. (“Trans-Global”); TMANglobal.com, Inc. (“TMAN”); North Wave Communications Corp. (“North Wave”); Lasertec International, Inc. (“Lasertec”); Chill Tech Industries, Inc. (“Chill Tech”); Micromem Technologies, Inc. (“Micromem”); Converge Global, Inc. (“Converge”); Juniper Group, Inc. (“Juniper”); LaJolla Diagnostics, Inc. (“LaJolla”); Aquagenix, Inc. (“Aquagenix”) and Top Image Systems, Ltd. (“Top Image”).

2. First, from 1997 through at least June 11, 1999, DiMarco and Globus sent phony faxes to financial institutions, attorneys and individuals throughout the United States touting the issuers’ stocks. In the faxes, DiMarco and Globus made false representations, among other things, that the sender was affiliated with prominent financial institutions and possessed favorable non-public information about the issuers, and that the issuers’ stocks would both trade on Nasdaq and dramatically increase in price in the near future. Second, DiMarco prepared and distributed to issuers false press releases that were disseminated by seven of the issuers between March and June 1999. DiMarco knowingly made false statements that the issuers were considering an acquisition of assets worth \$4 million, or that an “east coast investment banking firm,” i.e., Globus, had offered to provide the issuers with \$5 million or \$60 million of financing.

3. From May 10 to June 7, 1999, two of the issuers disseminated the false press releases touted by DiMarco. China Food, through its chief executive officer, James C. Tilton (“Tilton”), and Trans-Global, through its director, Jacques Verhaak (“Verhaak”), disseminated the press releases written by DiMarco, which they knew or were reckless in not knowing contained materially false information. Then, China Food, Tilton, Trans-Global and Verhaak took no corrective action after learning additional information demonstrating that the press

releases were false. Further, Trans-Global and Verhaak disseminated three other press releases in June 1999 falsely stating that the company had agreed to acquire valuable real estate in Florida.

4. Globus, at the direction of DiMarco, currently is conducting a fraudulent offering of unregistered investment contracts through its Internet website. The website falsely states that investors will receive risk-free returns between 17.5% and 35% through investments in a U.S. government-sponsored "investment program."

5. Defendants, directly and indirectly, are now and have been engaged in, and unless restrained and enjoined by this Court will continue to engage in, transactions, acts, practices, and courses of business that violate Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 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 thereunder [17 C.F.R. §240.10b-5].

6. The Commission brings this action pursuant to the authority conferred upon it by Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)] and Section 21(d) and (e) of the Exchange Act [15 U.S.C. § 78u(d) and (e)] for an order permanently restraining and enjoining Defendants and granting other equitable and legal relief.

#### **Jurisdiction and Venue**

7. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77u(a)] and Sections 21(e) and 27 of the Exchange Act [15 U.S.C. §§78u(e) and 78aa]. Venue lies in this Court pursuant to Section 22(a) of the Securities Act and Section 27 of the Exchange Act.

8. In connection with the transactions, acts, practices, and courses of business

described in this Complaint, each of the defendants, directly and indirectly, has made use of the means or instrumentalities of interstate commerce, of the mails, and/or of the means and instruments of transportation or communication in interstate commerce.

9. Defendants Globus and DiMarco reside within this judicial district. Additionally, certain of the transactions, acts, practices and courses of business constituting the violations of law alleged herein occurred within this judicial district.

#### **Defendants**

10. Globus is a Nevada corporation. Globus appears to share a floor of an office building located in Miami, Florida with approximately sixty other companies and/or individuals.

11. DiMarco is a member of Globus Group's board of directors. In October 1984, DiMarco was convicted for receiving bribes while employed as an agent of the Internal Revenue Service ("IRS") and sentenced to five years of probation.

12. Trans-Global is a Nevada corporation headquartered in Des Plaines, Illinois. In May 1999, Trans-Global changed its name from Lionshead Entertainment Corp. and claimed to be engaged in developing time-share properties. Trans-Global purports to own real estate in Florida. Trans-Global's common stock is quoted on the Bulletin Board. The company is not registered with and has not filed any reports with the Commission.

13. China Food, a Nevada corporation headquartered in Kew Gardens, New York, purportedly owns shares of a brewery in China's Anhui province. China Food's common stock is quoted on the Bulletin Board and the company is registered with the Commission pursuant to Section 12(b) of the Exchange Act [15 U.S.C. § 78l(b)]. China Food's most recent Form 10-QSB reported 5,385,431 shares of common stock outstanding and total assets of \$17,941,515.

14. Verhaak, age unknown, is a Tennessee resident and a member of Trans-Global's board of directors.

15. Tilton, age 37, is a New York resident and the chief executive officer of China Food.

## FACTS

### **A. Phony Faxes**

16. Many of the faxes explicitly recommended purchasing large quantities of the issuers' stock. The faxes were written in a style suggesting a communication between two friends and referred to the intended recipient by first name, an initial, or a nickname (such as "Buddy" or "Amigo"), implying that the actual recipient received the faxes in error. For the most part, the purported sender of the fax was identified by first name only, i.e., "Frank," or "Bill."

17. The faxes contained one or more of the following statements: (a) the sender improperly possessed inside information concerning the issuers being touted; (b) an inside source was providing the sender of the fax with nonpublic information about significant corporate events or the issuers' future plans; (c) the issuers' stock price would increase dramatically in the near future; (d) the sender of the fax was employed by prominent financial institutions, including Prudential Securities, Inc. ("Prudential"), Citibank Global Asset Management ("Citibank"), or Merrill Lynch, Pierce Fenner & Smith ("Merrill Lynch"); (e) three of the issuers, China Food, TMAN and Trans-Global, would soon list on the Nasdaq SmallCap market; and (f) two of the issuers, Juniper and Top Image, had signed major unannounced contracts with large companies or the United States government, including the U.S. Postal Service and U.S. Navy.

18. Many of the faxes caused the price and trading volume of the touted issuers' stocks to increase significantly.

19. The statements in the faxes were false and misleading. Because DiMarco is unaffiliated with any public company, and otherwise not privy to nonpublic corporate developments, the statements that the sender of the faxes possesses insider information are factually false and inherently fraudulent. Further, the stock price predictions lack a reasonable basis and are false and misleading because the issuers are relatively unknown and thinly capitalized, and their stock prices were well below the levels predicted by DiMarco at the time he made such predictions.

20. Moreover, Prudential, Citibank and Merrill Lynch have disclaimed any involvement with the faxes, and the sender's implied claim of affiliation with these entities is false. Similarly, both Juniper and Top Image deny having the major contracts alluded to in several of the faxes. Finally, the prediction that China Food, TMAN and Trans-Global soon would be listed on Nasdaq lacked a reasonable basis because the three issuers were unable to meet Nasdaq SmallCap listing requirements, including Nasdaq's net asset and/or minimum bid price requirements. To date, none of the three have sought Nasdaq listing.

21. DiMarco acted knowingly, or at a minimum recklessly, in making the representations described in Paragraph 17.

**B. False Press Releases Drafted by DiMarco**

22. DiMarco drafted two false and misleading press releases that were disseminated by six of the issuers. First, from March 7 to June 1, 1999, China Food, Trans-Global, TMAN, Converge, Chill Tech, and North Wave issued different versions of a similar press release stating

that their respective boards of directors had “voted to pursue” either “\$4 million in assets in the form of television airtime” in “U.S. major metropolitan markets,” or an unidentified \$4 million acquisition “opportunity.”

23. The press releases by each issuer further stated that the purported \$4 million acquisition would “provide the resources” to “launch a major nationwide advertising campaign during the summer of 1999.” The press release further stated that, subject to the completion of due diligence, the proposed acquisitions would give the respective issuers the “asset value” needed to qualify them for Nasdaq SmallCap listing. Four of the seven versions of this press release further attributed identical quotations to the respective chief executive officers of the issuers (all different individuals) regarding the supposed acquisition. Upon information and belief, Tilton and Verhaak reviewed, approved and/or issued the press releases on behalf of China Food and Trans-Global, respectively.

24. Upon information and belief, these press releases were false and misleading because the assets offered for sale to the seven issuers did not exist, or were not worth the represented amount. DiMarco, China Food, Tilton, Trans-Global and Verhaak acted knowingly, or at a minimum recklessly, in making such representations.

25. On May 17 and June 7, 1999, China Food and Trans-Global, respectively, issued versions of a press release stating that an unidentified “east coast investment banking firm,” i.e., Globus, had offered to provide \$60 or \$5 million in financing. The press releases stated that the offers were for a one year note requiring the interest to be prepaid from proceeds with the principal loan amount to be repaid within one year and that the “deal calls for company stock to be pledged as security.” Tilton, China Food’s chief executive officer, and Trans-Global’s president both were

quoted as stating: “[i]f we accept this offer, it would give us the funds to complete some acquisitions” under contemplation that “would greatly increase the book value of our company and qualify us for Nasdaq Small Cap.” Upon information and belief, Tilton and Verhaak reviewed, approved and/or issued the press releases on behalf of China Food and Trans-Global, respectively.

26. Upon information and belief, this press release was false and misleading because Globus did not directly or indirectly have the means to provide the financing offered. DiMarco, China Food, Tilton, Trans-Global and Verhaak acted knowingly, or at a minimum recklessly, in making such representations.

**C. Other False Press Releases Issued by Trans-Global**

27. In addition to disseminating the false press releases drafted by DiMarco, Trans-Global issued three other false and misleading press releases relating to a purported acquisition of two separate real estate parcels in Florida. On June 10 and 14, 1999, the company issued press releases stating that it had agreed to acquire, or that its board of directors had voted to approve the acquisition of, Murphy’s Island for \$6 million. Further, on June 3, Trans-Global issued a press release stating that its board of directors had voted to authorize the acquisition of Sun Raye River Estates for \$3 million.

28. Upon information and belief, Verhaak drafted, reviewed and/or issued these press releases.

29. The press releases were false and misleading because no agreements to acquire the properties exist. Verhaak and Trans-Global acted knowingly, or at a minimum recklessly, in making such representations.



**D. Fraudulent Offering Of Investment Contracts By Globus**

30. Through its Internet website (www.globusgroup.com), Globus currently is engaging in an unregistered distribution of securities in the form of investment contracts. Globus' website offers interests in a fraudulent "investment program." The website states that investors, through Globus, will lend money to "up and coming" public companies with "clearly demonstrated genuine growth potential" identified by Globus. The website further states that the companies will issue stock to the investors as collateral, and then intentionally default on the loans. Globus states that it retains any amounts in excess of the returns "forecasted" to be received by investors.

31. The website additionally states, among other things, that: (a) the investment program is "authorized by the U.S. Government;" (b) the investment program carries little or no risk; (c) investors will receive investment returns of between 17.5% and 35% annually; and (d) stock received by investors from defaulting public companies may be freely traded, and that the stock has "instant liquidity;" The website does not disclose the felony conviction of DiMarco, one of Globus' directors. Upon information and belief, the DiMarco is the source of, or has approved the publication of, all information on the website.

32. These statements are false and misleading. The investment program is unauthorized by any agency of the United States government. Further, loans made to obscure public companies may have a high risk of default. Moreover, to the extent investors obtain stock issued by such companies as collateral, such stock may be expected to be volatile, thinly traded, and likely to decline in value so as to be worth less than the loan amount. Finally, since stock received directly from an issuer is legally restricted as to sale, in the absence of an effective

registration statement or existence of a valid exemption from registration. See Rule 144(a)(3)(i) [15 C.F.R. Sec. 230.144(a)(3)(i)]. DiMarco and Globus acted knowingly, or at a minimum recklessly, in making such representations.

33. At no time has a registration statement been filed with the Commission or been in effect as to Globus or any securities offered by Globus.

### **FIRST CAUSE OF ACTION**

(Violations of Exchange Act §10(b) and Rule 10b-5)

34. Plaintiff repeats and realleges paragraphs 1 through 33 above.

35. Defendants Globus, DiMarco, China Food, Tilton, Trans-Global, and Verhaak, with scienter, in connection with the purchase or sale of securities, by the use of means or instrumentalities of interstate commerce or of the mails, directly or indirectly: (a) employed devices, schemes or artifices to defraud; (b) made untrue statements of material facts or 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; or (c) engaged in acts, practices or courses of business which operated or would operate as a fraud or deceit upon purchasers of securities in violation of Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5 [17 C.F.R. §240.10b-5] thereunder.

36. By reason of the foregoing, Defendants Globus, DiMarco, China Food, Tilton, Trans-Global, and Verhaak, violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder and unless restrained and enjoined will continue to do so.

( )

## **SECOND CAUSE OF ACTION**

(Violations of Securities Act § 17(a)(1))

37. Plaintiff repeats and realleges paragraphs 1 through 33 above.

38. Defendants Globus and DiMarco, with scienter, in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce, or by the use of the mails, directly or indirectly employed devices, schemes or artifices to defraud in violation of Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

39. By reason of the foregoing, Defendants violated Section 17(a)(1) of the Securities Act and unless restrained and enjoined will continue to do so.

## **THIRD CAUSE OF ACTION**

(Violations of Securities Act §§ 17(a)(2) and (3))

40. Plaintiff repeats and realleges paragraphs 1 through 33 above.

41. Defendants Globus and DiMarco, in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce, or by the use of the mails, directly or indirectly (a) obtained money or property by means of untrue statements of material fact and by 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; or (b) engaged in transactions, practices or courses of business which operate, operated or would operate as a fraud or deceit upon purchasers of securities in violation of Sections 17(a)(2) and (3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and (3)].

42. By reason of the foregoing, Defendants violated Sections 17(a)(2) and (3) of the Securities Act and unless restrained and enjoined will continue to do so.

**FOURTH CAUSE OF ACTION**

(Violations of Securities Act § 5(a) and 5(c))

43. Plaintiff repeats and realleges paragraphs 1 through 33 above.

44. Defendants Globus and DiMarco, directly and indirectly, in connection with the sale and offer to sell securities by the means or instruments of transportation or communication in interstate commerce, or the mails, have:

45. Caused to be carried through the mails or in interstate commerce securities for the purpose of sale or for delivery after sale when no registration statement was in effect; and

46. Offered to sell, through the use or medium of any prospectus or otherwise, a security when no registration statement had been filed.

47. Defendants Globus and DiMarco offered to sell and sold to investors interests in an investment program for which no registration statement had been filed or was in effect.

48. By reason of the foregoing, Defendants Globus and DiMarco violated Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].

**WHEREFORE**, the Commission respectfully requests that this Court:

**I.**

Enter an injunction, preliminary during the pendency of this action and permanently thereafter, restraining and enjoining Defendants Globus, DiMarco, China Food, Tilton, Trans-Global, and Verhaak, their subsidiaries, officers, directors, agents, servants, employees, and attorneys-in-fact, and all persons in active concert or participation with them, and each of them, from violating, directly or indirectly, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

**II.**

Enter an injunction, preliminary during the pendency of this action and permanently thereafter, restraining and enjoining Defendants Globus and DiMarco, their subsidiaries, officers, directors, agents, servants, employees, and attorneys-in-fact, and all persons in active concert or participation with them, and each of them, from violating, directly or indirectly, Sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Securities Act.

**III.**

Enter an injunction, preliminary during the pendency of this action and permanently thereafter, restraining and enjoining Defendants Globus and DiMarco, their subsidiaries, officers, directors, agents, servants, employees, and attorneys-in-fact, and all persons in active concert or participation with them, and each of them, from violating, directly or indirectly, Sections 5(a) and 5(c) of the Securities Act.

**IV.**

Order Defendants Globus and DiMarco to disgorge all illegal gains, together with prejudgment interest.

**V.**

Order Defendants Globus and DiMarco to pay civil money penalties 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)].

**VI.**

Order Defendants Tilton and Verhaak to pay civil money penalties pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. 78u(d)(3)].

**VII.**

Grant such other relief as this Court may deem just or appropriate.

Dated: July 14, 1999



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Katherine S. Addleman  
Michael R. MacPhail  
Andres R. Guevara

Attorneys for the Plaintiff  
Securities and Exchange Commission  
1801 California Street, Suite 4800  
Denver, Colorado 80202  
(303) 844-1000  
(303) 844-1010 (fax)

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers required by law, except as provided by local rule 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 the Court for the United States District Court for the District of Columbia. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

(a) PLAINTIFFS

U.S. Securities and Exchange Commission

DEFENDANTS

GLOBUS GROUP INC., BRUCE GORCYCA A/K/A ANTHONY DIMARC CHINA FOOD AND BEVERAGE CO., JAMES TILTON, TRANS-GLOBAL HOLDING, INC., AND JACQUES VERHAAK

SIMONTON

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

ADAOE 99CV 1968 / AS6 / AMS

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(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)

U.S. Securities and Exchange Commission 1801 California Street, Suite 4800, Denver, CO 80202-2648 (303) 844-1000

ATTORNEYS (IF KNOWN)

99 JUL 16 2

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

- 1 U.S. Government Plaintiff
3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant
4 Diversity (Indicate Citizenship of Parties in Item 111)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- Citizen of This State PTF 1 DEF 1
Citizen of Another State PTF 2 DEF 2
Citizen or Subject of a Foreign Country PTF 3 DEF 3
Incorporated or Principal Place of Business in This State PTF 4 DEF 4
Incorporated Principal Place at Business in Another State PTF 5 DEF 5
Foreign Nation PTF 6 DEF 6

IV. ORIGIN

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated Reopened
5 Transferred from another district (Specify)
6 Multidistrict Litigation
7 Appeal to District Court from Judgment

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

Table with 6 columns: CONTRACT, REAL PROPERTY, PERSONAL INJURY, CIVIL RIGHTS, FORFEITURE/PENALTY, LABOR, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes items like Insurance, Marne, Miller Act, etc.

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. Plaintiff alleges violations of the 15 U.S.C. 77q(a),

15 U.S.C. 78j(b), 15 U.S.C. 77e(a) and (c) DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

VII. REQUESTED IN COMPLAINT

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint JURY DEMAND: YES NO

VIII. RELATED CASE(S) (See instructions). Judge IF ANY

Docket Number

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING OFF JUDGE MAG. JUDGE