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No JS-6

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ENTERED

FILED

JUL 27 2001
7-27-2001

JUL 26 2001

LODGED

JUL 24 2001

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION
DEPUTY

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11 SECURITIES AND EXCHANGE COMMISSION,
12 Plaintiff,
13 vs.
14 TLC INVESTMENTS & TRADE CO., ET AL.,
15 Defendants.

SACV-00-960-DOC(EEx)

**[PROPOSED] FINAL JUDGMENT OF
PERMANENT INJUNCTION AND
OTHER RELIEF AGAINST DEFENDANT
ERNEST F. COSSEY**

**THIS CONSTITUTES NOTICE OF ENTRY
AS REQUIRED BY FRCP, RULE 77(d).**

17 Plaintiff Securities and Exchange Commission ("Commission"), having filed and
18 served upon Defendant Ernest F. Cossey (aka "Frank Cossey")(hereinafter "Defendant
19 Cossey") a Summons and Complaint in this matter and Defendant Cossey having admitted
20 service upon him of the Summons and Complaint in this action and the jurisdiction of this
21 Court over him and over the subject matter of this action; having been fully advised and
22 informed of his right to a judicial determination of this matter; having waived the entry of
23 findings of fact and conclusions of law as provided by Rule 52 of the Federal Rules of Civil
24 Procedure; having consented to the entry of this Final Judgment of Permanent Injunction
25 and Other Relief Against Defendant Ernest F. Cossey ("Final Judgment") without admitting
26 or denying the allegations in the Complaint, except as specifically set forth in the Consent of
27 Defendant Ernest F. Cossey to Entry of Final Judgment of Permanent Injunction and Other
28 Relief ("Consent"); and it appearing that no notice of hearing upon the entry of this Final

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FINAL JUDGMENT OF PERMANENT INJUNCTION AND OTHER RELIEF

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1 Judgment being necessary; and the Court being fully advised in the premises, and there
2 being no just reason for delay;

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4 IT IS ORDERED, ADJUDGED & DECREED that Defendant Cossey and his officers,
5 agents, servants, employees, attorneys-in-fact and all persons in active concert or
6 participation with any of them, who receive actual notice of this Final Judgment, by personal
7 service or otherwise, and each of them, are permanently restrained and enjoined from,
8 directly or indirectly:

9 A. making use of any means or instruments of transportation or communication in
10 interstate commerce or of the mails to sell the securities of any issuer, through
11 the use or medium of any prospectus or otherwise, unless and until a registration
12 statement is in effect as to such securities;

13 B. carrying or causing to be carried through the mails or in interstate commerce, by
14 any means or instruments of transportation, for the purpose of sale or for delivery
15 after sale, the securities of any issuer, unless and until a registration statement is
16 in effect as to such securities; and

17 C. making use of any means or instruments of transportation or communication
18 in interstate commerce or of the mails to offer to sell or offer to buy, through
19 the use or medium of any prospectus or otherwise, the securities of any
20 issuer, unless and until a registration statement has been filed with the
21 Commission as to such securities, or while a registration statement has been
22 filed with the Commission as to such securities, or while a registration
23 statement as to such securities is the subject of a refusal order or stop order
24 or (prior to the effective date of the registration statement) any public
25 proceeding or examination under Section 8 of the Securities Act of 1933
26 ("Securities Act"), 15 U.S.C. § 77h;

27 in violation of Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) & 77e(c);
28 provided, however, that nothing in this Final Judgment shall apply to any security or

1 transaction which is exempt from the provisions of Section 5 of the Securities Act, 15 U.S.C.
2 § 77e.

3 II.

4 IT FURTHER IS ORDERED, ADJUDGED AND DECREED that Defendant Cossey
5 and his agents, servants, employees, attorneys-in-fact and all persons in active concert or
6 participation with any of them, who receive actual notice of this Final Judgment by personal
7 service or otherwise, and each of them, are permanently restrained and enjoined from,
8 directly or indirectly, in the offer or sale of the securities of any issuer, by the use of any
9 means or instruments of transportation or communication in interstate commerce or by the
10 use of the mails:

11 A. employing any device, scheme or artifice to defraud;

12 B. obtaining money or property by means of any untrue statement of a material
13 fact or any omission to state a material fact necessary in order to make the
14 statements made, in the light of the circumstances under which they were
15 made, not misleading; or

16 C. engaging in any transaction, practice, or course of business which operates or
17 would operate as a fraud or deceit upon the purchaser;

18 in violation of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

19 III.

20 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Cossey
21 and his agents, servants, employees, attorneys-in-fact and all persons in active concert or
22 participation with any of them, who receive actual notice of this Final Judgment by personal
23 service or otherwise, and each of them, are permanently restrained and enjoined from,
24 directly or indirectly, in connection with the purchase or sale of any security, by the use of
25 any means or instrumentality of interstate commerce, or of the mails, or of any facility of any
26 national securities exchange:

27 A. employing any device, scheme, or artifice to defraud;

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- 1 B. making any untrue statement of a material fact or omitting to state a material
2 fact necessary in order to make the statements made, in the light of the
3 circumstances under which they were made, not misleading; or
4 C. engaging in any act, practice, or course of business which operates or would
5 operate as a fraud or deceit upon any person;
6 in violation of Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C.
7 § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

8 IV.

9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Cossey
10 shall pay disgorgement in the amount of \$10,690,697, representing gains from the conduct
11 alleged in the Complaint, plus prejudgment interest thereon in the amount of \$271,921.53,
12 totaling \$10,962,618.53 within thirty (30) days of entry of this Final Judgment. All payments
13 of cash pursuant to this Final Judgment shall be made by cashier's check, certified check,
14 or postal money order and shall be made payable to Robb Evans, Receiver for TLC
15 Investments and Trade Co, et al. (the "Receiver"), and sent to the Receiver, at Robb Evans
16 & Associates, 11450 Sheldon Street, Sun Valley, California 91352-1121, under cover of a
17 letter that identifies the defendant, the name and case number of this litigation and the
18 Court. A copy of the cover letter shall be simultaneously sent to counsel for the
19 Commission in this action at its Pacific Regional Office, 5670 Wilshire Boulevard, 11th Floor,
20 Los Angeles, California 90036. All transfers of assets pursuant to this Final Judgment shall
21 be made to the Receiver.

22 V.

23 IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT Defendant Cossey
24 shall, within thirty (30) days from the date of entry of the Final Judgment, evacuate and
25 execute a quit-claim deed in favor of the Receiver for the real property located at 21880
26 Golden Canyon Court, Diamond Bar, California 91765. Cossey shall also cooperate with
27 the Receiver, in the transfer, listing for sale, and sale of that real property. Defendant
28 Cossey is further ordered to surrender and turn over to the Receiver all personal

1 furnishings, jewelry, automobiles, and other personal property within thirty (30) days of the
2 date of entry of this Final Judgment.

3 VI.

4 The Receiver shall report to the Court the total net proceeds obtained from the
5 liquidation of assets quit-claimed, surrendered or turned over by Defendant Cossey to the
6 Receiver, within 90 days after completing the liquidation of these assets and such proceeds
7 shall be credited to the disgorgement amount to be collected by the Receiver, from
8 Defendant Cossey as set forth in Section IV of this Final Judgment.

9 VII.

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11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT the Receiver, shall
12 value the real property quit-claimed, turned over and surrendered by Defendant Cossey by
13 obtaining two appraisals from MAI appraisers, two real estate brokers' opinions of value,
14 and two other independent comparable values to establish an average appraised value.
15 The Receiver shall then list the property for sale with a licensed real estate broker and
16 conduct the sale process for the real property at a commercially reasonable pace. The sale
17 price shall be subject to Court approval on an *ex parte* basis. The Receiver shall be
18 permitted to sell the real property for a gross sales price of 80% of average appraised
19 value, or higher. If the Receiver does not obtain a price that is at least 80% of the average
20 appraised value, then the Receiver must follow the provisions set forth in 28 U.S.C. § 2001
21 for the sale of the real property.
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24 VIII.

25 IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT the Receiver, shall
26 value the personal property turned over and surrendered by Defendant Cossey by obtaining
27 valuations from at least two appraisers or other persons qualified to provide valuations for
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1 specific personal property. The Receiver shall be permitted to sell the real property for a
2 gross sales price of 80% of average appraised gross value, or higher and without further
3 court order. In such event, such sales shall be deemed confirmed by the Court and no
4 further compliance with 28 U.S.C. §§ 2001 and 2004 shall be required. Should any of the
5 property turned over and surrendered to the Receiver, using reasonable judgment, to have
6 negligible resale value (e.g. used bedding, used personal clothing, used ordinary kitchen
7 utensils, personal photographs, and mementos) the Receiver may return such personal
8 property to Defendant Cossey.
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11 IX.

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT Defendant Cossey
13 shall pay a civil money penalty, pursuant to Section 20(d) of the Securities Act, 15 U.S.C. §
14 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), of \$110,000.
15 Defendant Cossey shall pay the civil penalty by cashier's check, certified check or postal
16 money order made payable to the United States Treasury, and transmitted to the
17 Comptroller, Securities and Exchange Commission, Operations Center, 6432 General
18 Green Way, Stop 0-3, Alexandria, Virginia 22312, under cover of a letter that identifies the
19 Defendant Cossey, the name of the case and case number of this litigation, and the Court.
20 A copy of the cover letter and the check or money order shall be simultaneously transmitted
21 to counsel for the Commission at its Los Angeles office, 5670 Wilshire Boulevard, 11th
22 Floor, Los Angeles, California 90036.

23 X.

24 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Cossey's
25 compliance with this Final Judgment shall not be deemed a violation of the freeze placed on
26 his assets pursuant to Part VI of the Order of Preliminary Injunction and Orders: (1)
27 Freezing Assets; (2) Appointing a Receiver; (3) Prohibiting the Destruction of Documents;
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1 (4) for Accounting; (5) for Repatriation of Assets; and (6) for Expedited Discovery, issued by
2 this Court on November 1, 2000.

3 XI.

4 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the provisions of the
5 Consent filed concurrently with this Final Judgment are incorporated herein with the same
6 force and effect as if fully set forth herein and that Defendant Cossey shall comply with the
7 Consent.

8 XII.

9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain
10 jurisdiction over this action to implement and enforce the terms of the Final Judgment and
11 other decrees that may be entered herein and to grant such other relief as the Court may
12 deem necessary and just.

13 * * *

14 There being no just reason for delay, the Clerk of the Court is hereby directed,
15 pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, to enter this Final Judgment
16 forthwith.

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19 DATED: July 25, 2001

David O. Carter
THE HONORABLE DAVID O. CARTER
UNITED STATES DISTRICT JUDGE

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22 Respectfully submitted by:

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24 Marianne Wisner
25 MARIANNE WISNER
26 Attorney for Plaintiff
27 Securities and Exchange Commission
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PROOF OF SERVICE

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I am over the age of 18 years and not a party to this action. My business address is:
[X] 5670 Wilshire Boulevard, 11th Floor, Los Angeles, California 90036-3648,
telephone no. (323) 965-3998, facsimile no. (323) 965-3908.

On July 24, 2001, I served the documents entitled **[PROPOSED] FINAL JUDGMENT OF PERMANENT INJUNCTION AND OTHER RELIEF AGAINST DEFENDANT ERNEST F. COSSEY** upon the parties to this action addressed as stated on the attached service list:

[X] **OFFICE MAIL:** By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

[] **PERSONAL DEPOSIT IN MAIL:** By placing in sealed envelope(s), which I personally deposited with the U.S. Postal Service. Each such envelope was deposited with the U.S. Postal Service at Los Angeles, California, with first class postage thereon fully prepaid.

[] **EXPRESS U.S. MAIL:** Each such envelope was deposited in a facility regularly maintained at the U.S. Postal Service for receipt of Express Mail at Los Angeles, California, with Express Mail postage paid.

[] **PERSONAL SERVICE:** I personally delivered each such envelope by hand to the office of the addressee.

[] **FEDERAL EXPRESS:** By placing in sealed envelope(s) designated by Federal Express with delivery fees paid or provided for, which I deposited in a facility regularly maintained by Federal Express or delivered to a Federal Express courier, at Los Angeles, California.

[] **FAX (BY AGREEMENT ONLY):** By transmitting the document by facsimile transmission at the time shown on the attached transmission report. The transmission was reported as complete and without error, and the attached transmission report was properly issued by the transmitting fax machine.

[X] **(Federal)** I declare that I am employed in the office of a member of the bar of this Court, at whose direction the service was made. I declare under penalty of perjury that the foregoing is true and correct.

Date: July 24, 2001

Magnolia M. Marcelo
Magnolia M. Marcelo

