

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CIV-ZLOCH

SECURITIES AND EXCHANGE COMMISSION,
Plaintiff,
v.
DAN STUART,
Defendant.

96-6425

CIVIL ACTION NO.

FILED by	D. C.
MAY 2 1996	
CARLOS HENSON CLERK U.S. DIST. CT. S.D. OF FLA. - FL. 1300	

FINAL JUDGMENT OF PERMANENT INJUNCTION AND OTHER
RELIEF

Plaintiff, Securities and Exchange Commission ("Commission"), having filed its complaint in this matter against defendant Dan Stuart ("Stuart"), seeking injunctive and other relief, and said defendant having entered a general appearance, admitted the jurisdiction of this court over him and over the subject matter of this action, waived entry of findings of fact and conclusions of law pursuant to Rules 52 and 65 of the Federal Rules of Civil Procedure with respect to the relief granted in this order, and without admitting or denying any of the allegations of the complaint having consented to the entry of this order, it is hereby,

I.

ORDERED, that defendant Stuart, his officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them be, and they hereby are, permanently restrained and enjoined from, directly or indirectly:

- (1) making use of any means or instruments of transportation

[Handwritten signature]

or communication in interstate commerce or of the mails to sell any securities in the form of investment contracts involving interests in wireless cable television systems, or any other security, through the use of any prospectus or otherwise, unless and until a registration statement is in effect with the Commission as to such securities;

- (2) carrying securities in the form of investment contracts, involving interests in wireless cable television systems, or any other security, or causing them to be carried through the mails or in interstate commerce, by means or instruments of transportation, for the purpose of sale or delivery after sale, unless and until a registration statement is in effect with the Commission as to such securities;
- (3) 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 interest in securities, in the form of investment contracts, involving interests in wireless cable television systems, or any other security, unless and until a registration statement is filed with the Commission as to such security, or while a registration statement filed with the Commission as to such security 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 of 1933 ("Securities Act"), 15 U.S.C. 77h, in violation of Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. 77e(a) and 77e(c). Provided, however, that nothing in the foregoing portion of this order shall apply to any security or transaction which is exempt from the provisions of Section 5 of the Securities Act, 15 U.S.C. 77e.

II.

IT IS FURTHER ORDERED that defendant Stuart, his agents, servants, employees, attorneys and those persons in active concert or participation with them, in connection with the purchase or sale or in the offer or sale of securities, by use of any means or instrumentalities of interstate commerce or any means or instruments of transportation or communication in interstate commerce, or by the mails or any facility of any national securities exchange, be, and they hereby are, restrained from, directly or indirectly:

- (1) employing any device, scheme or artifice to defraud;
- (2) engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person;
- (3) obtaining money or property by means of 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

(4) making any untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading,

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

III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Stuart pay disgorgement in the amount of \$735,000, representing his gains from the conduct alleged in the Complaint, plus pre-judgment interest thereon to be computed at the IRS rate on delinquent taxes from November 1993. Based upon Defendant Stuart's sworn representations in his Statement of Financial Condition dated October 20, 1995, and submitted to the Commission, payment of all but \$225,000 of the disgorgement and pre-judgment interest thereon is waived. With regard to the remainder, Stuart will be given credit for all sums previously transferred by him to the receiver. This waiver is contingent upon the accuracy and completeness of his sworn Statement of Financial Condition. If at any time following the entry of this Final Judgment the Commission obtains information indicating that Defendant Stuart's representations to the Commission concerning his assets, income, liabilities, or net worth were fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made, the

Commission may, at its sole discretion and without prior notice to Defendant Stuart, petition this Court for an order requiring Defendant Stuart to pay the remaining portion of the disgorgement and pre-judgment and post-judgment interest thereon. In connection with any such petition, the only issue shall be whether the financial information provided by Defendant Stuart was fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made. In its petition, the Commission may move this Court to consider all available remedies, including, but not limited to, ordering Defendant Stuart to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of this Final Judgment, and the Commission may also request additional discovery. Defendant Stuart may not, by way of defense to such petition, challenge the validity of this Consent or the Final Judgment, contest the allegations in the Complaint filed by the Commission, the amount of disgorgement and interest, or assert that disgorgement should not be ordered.

IV.

IT IS FURTHER ORDERED THAT based upon Defendant Stuart's sworn representations in his Statement of Financial Condition dated (insert date of financial statement), and submitted to the Commission, the Court is not ordering him to pay a civil penalty pursuant to Section 20(d) of the Securities Act, 15 U.S.C. 77t(d), and Section 21(d) of the Exchange Act, 15 U.S.C. 78u(d). The determination not to impose a civil penalty is contingent upon the accuracy and completeness of his sworn Statement of Financial

Condition. If at any time following the entry of this Final Judgment the Commission obtains information indicating that Defendant Stuart's representations to the Commission concerning his assets, income, liabilities, or net worth were fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made, the Commission may, at its sole discretion and without prior notice to Defendant Stuart, petition this Court for an order imposing a civil penalty. In connection with any such petition, the only issues shall be whether the financial information provided by Defendant Stuart was fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made, and the amount of civil penalty to be imposed. In its petition, the Commission may move this Court to consider all available remedies, including, but not limited to, ordering Defendant Stuart to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of this Final Judgment, and the Commission may also request additional discovery. Defendant Stuart may not, by way of defense to such petition, challenge the validity of this Consent or the Final Judgment, contest the allegations in the Complaint filed by the Commission, or assert that payment of a civil penalty should not be ordered.

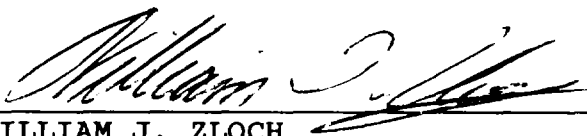
V.

IT IS FURTHER ORDERED that this Court will retain jurisdiction over this matter and the defendants for all purposes and will order

other and further relief that this Court deems appropriate under the circumstances.

To the extent not otherwise disposed of herein, all pending motions are hereby DENIED as moot.

ADJUDGED in Chambers at Fort Lauderdale, Broward County, Florida, this 2nd day of May, 1996.


WILLIAM J. ZLOCH
United States District Judge

Copies furnished:

William P. Hicks, Esq.

Dan Stuart, Defendant
144 New York Avenue
Freeport, New York 11520