

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

FILED
U.S. DIST. COURT
SAVANNAH DIV.

Dec 29 3 48 PM '97

CLERK: *[Signature]*
SO. DIST. OF GA.

SECURITIES AND EXCHANGE COMMISSION

Plaintiff,

v.

SUSAN L. HIRSCH,
GREGORY M. HIRSCH,
DANNY B. KAMINSKY,
LEWIS A. KOODEN,
DANIEL H. KLUGMAN and
MICHAEL D. KOODEN,

Defendants.

Civil Action
No. CV-497-060

FINAL JUDGMENT
OF PERMANENT INJUNCTION
AS TO DEFENDANT LEWIS A. KOODEN

Plaintiff Securities and Exchange Commission (the "Commission") having filed its Complaint, and Defendant Lewis A. Kooden, having entered into the attached Consent and Undertakings of Defendant Lewis A. Kooden (the "Consent"), filed simultaneously with this Final Judgment of Permanent Injunction and incorporated by reference herein, having entered a general appearance, having acknowledged service of the Complaint, having admitted the Court's jurisdiction over him and over the subject matter of this action, having waived service of process, having waived filing of an answer, having waived the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure and, without admitting or denying any of the allegations of the Complaint, except as to jurisdiction, which the defendant admits, having consented to the entry of this

Final Judgment, and it further appearing that this Court has jurisdiction over Lewis A. Kooden, and the subject matter hereof, and the Court being fully advised in the premises:

I.

IT IS HEREBY ORDERED that Lewis A. Kooden, his agents, servants, employees, attorneys, and those persons in active concert or participation with him who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, are permanently enjoined and restrained from violating, directly or indirectly, by use of the means or instrumentalities of interstate commerce, the mails, or any facility of any national securities exchange:

- (a) Section 10(b) of the Securities Exchange Act of 1934 [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5] by: (1) employing any device, scheme or artifice to defraud, (2) 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 (3) engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security; and

(b) Section 14(e) of the Securities Exchange Act of 1934 [15 U.S.C. § 78n(e)] and Rule 14e-3 promulgated thereunder [17 C.F.R. § 240.14e-3] by:

- (1) trading in the securities sought or to be sought in a tender offer while in possession of material information relating to said tender offer which the defendant knows or has reason to know is nonpublic and has been acquired, directly or indirectly, from the offering person, the issuer of the securities sought or to be sought by such tender offer, or any officer, director, partner, employee, or other person acting on behalf of the offering person or such issuer, without disclosing a reasonable time prior to trading such information and its source; or
- (2) communicating material information relating to a tender offer, which information the defendant knows or has reason to know is nonpublic and knows or has reason to know was acquired, directly or indirectly, from the offering person, the issuer of the securities sought or to be sought by such tender offer, or any officer, director, partner, employee, or other person acting on behalf of the offering person or such issuer, to any other person under circumstances in which it is reasonably foreseeable that such communication is

likely to result in violation of Rule 14e-3 [17 C.F.R. § 240.14e-3] promulgated under the Securities Exchange Act of 1934.

II.

IT IS FURTHER ORDERED that Lewis A. Kooden shall pay disgorgement in the amount of \$43,795, representing his gains from the conduct alleged in the Complaint, plus prejudgment interest thereon in the amount of \$8,799, which shall be paid in accordance with Paragraph IV, below.

III.

IT IS FURTHER ORDERED that Lewis A. Kooden shall pay a civil penalty of \$43,795 pursuant to Section 21A(a) of the Securities Exchange Act of 1934 [15 U.S.C. § 78u-1(a)], which shall be paid in accordance with Paragraph V, below.

IV.

IT IS FURTHER ORDERED that, with respect to the monies ordered to be paid pursuant to Section II of this Final Judgment, Defendant Lewis A. Kooden shall pay \$32,129.68 within 10 days of entry of this Final Judgment, and \$16,064.83, plus postjudgment interest thereon, within three months of entry of this Final Judgment. All payments made pursuant to this paragraph shall be made to the Clerk of this Court by cashier's check, certified check or postal money order, under cover of a letter that identifies the defendant, the name and case number of this litigation and the name of this Court, with a copy of the cover letter simultaneously transmitted to counsel for the Commission

in this action, with such monies to be placed in an interest bearing account as required by Rule 67, Federal Rules of Civil Procedure and thereafter disbursed as directed by Order of this Court.

V.

IT IS FURTHER ORDERED that, with respect to the monies order to be paid pursuant to Section III of this Final Judgment, Defendant Lewis A. Kooden shall pay \$16,064.83, plus postjudgment interest thereon, within three months of entry of this Final Judgment, and \$32,129.66, plus postjudgment interest thereon, within six months of entry of this Final Judgment. All payments made pursuant to this paragraph shall be made by (a) United States money order, certified check, bank cashier's check or bank money order, (b) made payable to the Securities and Exchange Commission, (c) mailed by certified mail (return receipt requested) to the Comptroller, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 0-3, Washington, DC 20549, and (d) submitted under cover letter identifying Lewis A. Kooden as the defendant in this action, the case number of this action, the name of the Court, and the Commission's file number (HO-3060), a copy of which cover letter and proof of payment shall be sent to Christian J. Mixter, Chief Litigation Counsel, Division of Enforcement, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 8-8, Washington, D.C. 20549.