

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA

AUG 2 1997

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

WYATT GENE ROSS,  
LYNN K. ROSS, and  
MICKIE E. HIGGINS-HALLKE,

Defendants.

By: DA Deputy Clerk

Civil Action No.

RECEIVED 97-2431  
AUG 2 1997  
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FINAL JUDGMENT OF PERMANENT INJUNCTION AND OTHER RELIEF AS TO  
WYATT GENE ROSS

Plaintiff Securities and Exchange Commission ("Commission"),  
having filed its Complaint herein; defendant Wyatt Gene Ross ("Gene  
Ross"), having entered a general appearance, having admitted the in  
personam jurisdiction of this Court over him and the jurisdiction  
of this Court over the subject matter of the action; defendant Gene  
Ross having waived entry of findings of fact and conclusions of law  
under 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 and venue which he admits, and having  
consented to the entry of this Final Judgment of Permanent  
Injunction and Other Relief ("Final Judgment"); it appearing that  
this Court has jurisdiction over the parties and the subject matter  
hereof; and the Court being fully advised in the premises;

I.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that defendant Gene  
Ross, and his agents, servants, employees, attorneys, and 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, be and hereby are permanently enjoined from violating Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. 77q(a)] by, in the offer or sale of any securities by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly:

1. employing any device, scheme or artifice to defraud;
2. 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
3. engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

## II.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Gene Ross, and his agents, servants, employees, attorneys, and 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, be and hereby are permanently enjoined from violating 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], directly or indirectly, by, through the use of

any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange:

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.

III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Gene Ross, and his agents, servants, employees, attorneys, and 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, be and hereby are permanently enjoined from, directly or indirectly, violating Section 13(a) of the Exchange Act [15 U.S.C. 78m(a)] and Rules 12b-20, 13a-1, 13a-11 and 13a-13 thereunder [17 C.F.R. 240.12b-20, 240.13a-1, 240.13a-11 and 240.13a-13], by:

1. filing materially untrue, incorrect, false or misleading annual reports of any company with a security registered pursuant to Section 12 of the Exchange Act [15 U.S.C. 78l] or any company which is required to file reports

- pursuant to Section 15(d) of the Exchange Act [15 U.S.C. 78o(d)];
2. filing materially untrue, incorrect, false or misleading current reports of any company with a security registered pursuant to Section 12 of the Exchange Act [15 U.S.C. 78l] or any company which is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. 78o(d)];
  3. filing materially untrue, incorrect, false or misleading quarterly reports of any company with a security registered pursuant to Section 12 of the Exchange Act [15 U.S.C. 78l] or any company which is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. 78o(d)]; or
  4. failing, in addition to information expressly required to be included in statements or reports filed with the Commission, to add such further material information, if any, as may be necessary to make required statements, in the light of the circumstances under which they are made, not misleading.

#### IV.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Gene Ross, and his agents, servants, employees, attorneys, and 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, be and hereby are permanently enjoined

from, directly or indirectly, violating Sections 13(b)(2)(A), 13(b)(2)(B) and 13(b)(5) of the Exchange Act [15 U.S.C. 78m(b)(2)(A), 78m(b)(2)(B) and 78m(b)(5)] and Rules 13b2-1 and 13b2-2 thereunder [17 C.F.R. 240.13b2-1 and 240.13b2-2], by:

1. failing to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of any company which has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. 781] or any company which is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. 78o(d)]; or
2. failing to devise and maintain a system of internal accounting controls, of any company which has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. 781] or any company which is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. 78o(d)], sufficient to provide reasonable assurances that:
  - (a) transactions are executed in accordance with management's general or specific authorization;
  - (b) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and to maintain accountability for assets;

- (c) access to assets is permitted only in accordance with management's general or specific authorization; or
  - (d) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences;
3. knowingly circumventing or knowingly failing to implement a system of internal accounting controls or knowingly falsifying any book, record, or account of any company which has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. 781] or any company which is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. 78o(d)];
  4. falsifying or causing to be falsified, any book, record or account of any company which has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. 781] or any company which is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. 78o(d)];
  5. making or causing to be made materially false or misleading; or
  6. omitting to state, or causing another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which such statements are made, not misleading to an

accountant in connection with (1) any audit or examination of the financial statements of an issuer required to be made pursuant to Section 13 [15 U.S.C. 78m] of the Exchange Act or (2) the preparation or filing of any document or report required to be filed with the Commission pursuant to Section 13 of the Exchange Act [15 U.S.C. 78m].

V.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Gene Ross, and his agents, servants, employees, attorneys, and 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, be and hereby are permanently enjoined from, directly or indirectly, violating Section 14(a) of the Exchange Act [15 U.S.C. 78n(a)] and Rule 14a-9 thereunder [17 C.F.R. 240.14a-9], by, through the use of the mails or by any means or instrumentality of interstate commerce or of any facility of any national securities exchange or otherwise, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors:

- a. soliciting or permitting the use of his name to solicit any proxy or consent or authorization in respect of any security (other than an exempted security) registered pursuant to Section 12 of the Exchange Act [15 U.S.C. 78l], or

- b. making solicitations by means of proxy statements, forms of proxies, notice of meetings or other communications, written or oral, containing any statement which, at the time and in the light of the circumstances under which they are made, are false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the same meeting or subject matter which has become false or misleading.

VI.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Gene Ross, pursuant to Section 20(e) of the Securities Act [15 U.S.C. 77t(e)] and Section 21(d)(2) of the Exchange Act [15 U.S.C. 78u(d)(2)], be and hereby is permanently prohibited from acting as an officer or director of any company that has a class of securities registered with the Commission pursuant to Section 12 of the Exchange Act [15 U.S.C. 78l] or that is required to file reports with the Commission pursuant to Section 15(d) of the Exchange Act [15 U.S.C. 78o(d)].

VII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Gene Ross pay disgorgement in the amount of \$18,264, representing



his and his tippee's losses avoided from the illegal insider trading conduct alleged in the Complaint, plus prejudgment interest thereon in the amount of \$3,472. That amount shall be paid as follows: \$10,000 within thirty (30) days from the date of the entry of this order by cashier's check, certified check, or postal money order made payable to the U.S. Securities and Exchange Commission, and the remaining \$11,736 within two hundred and ten (210) days from the date of the entry of this order by cashier's check, certified check, or postal money order made payable to the U.S. Securities and Exchange Commission.

VIII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Gene Ross pay \$18,264 representing civil monetary penalties pursuant to Section 21A of the Exchange Act [15 U.S.C. 78u-1]. That amount shall be paid within two hundred and ten (210) days from the date of the entry of this order by cashier's check, certified check, or postal money order made payable to the U.S. Treasury.

IX.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Gene Ross pay \$25,000, representing civil 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)]. That amount shall be paid within two hundred and ten (210) days from the date of the entry of this order by cashier's check, certified check, or postal money order made payable to the U.S. Treasury.

X.


IT IS FURTHER ORDERED that the above amounts of civil penalties are based upon defendant Gene Ross' sworn representations in his Statement of Financial Condition dated March 24, 1997 and submitted to the Commission, and are contingent upon the accuracy and completeness of his Statement of Financial Condition. If at any time following the entry of this Final Judgment the Commission obtains information indicating that defendant Gene Ross' 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 Gene Ross, petition this Court for orders imposing additional civil penalties. In connection with any such petition, the allegations of the Complaint shall be deemed to be true and the only issues shall be whether the financial information provided by defendant Gene Ross was fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made, and the amount of civil penalties to be imposed. In its petition, the Commission may move this Court to consider all available remedies, including, but not limited to, ordering defendant Gene Ross 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 Gene Ross 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 disgorgement and/or civil penalties should not be ordered.

There being no just reason for delay, the Clerk of the Court is hereby directed to enter this Final Judgment pursuant to Rules 54(b), 58 and 77(d) of the Federal Rules of Civil Procedure.

Dated this 26 day of August, 1997.

  
UNITED STATES DISTRICT JUDGE

JUDGMENT ENTERED:

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Clerk

ENTERED  
AUG 27 1997  
BY L.D.T. CLERK  
DEPUTY CLERK