

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

FILED by X D.C.
JUL 17 1998
CARLOS JUENKE
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

SECURITIES AND EXCHANGE COMMISSION,)
)
Plaintiff,)
)
v.)
)
MAURY H. JOSEPH and)
ALLEN E. BENI,)
)
Defendants.)
_____)

CIVIL ACTION NO.
97-2872-Moreno

FINAL JUDGMENT OF
PERMANENT
INJUNCTION AND
OTHER RELIEF AS TO
DEFENDANT ALLEN
E. BENI

Defendant Allen E. Beni (" Beni") by the Consent annexed hereto, without admitting or denying any of the allegations in the Commission's Complaint, except that he is admitting the allegations as to the jurisdiction of this Court over him and over the subject matter of this action, has agreed to the entry of this Order of Permanent Injunction And Other Relief ("Permanent Injunction"). This Court having accepted such Consent and having jurisdiction over Defendant Beni and the subject matter hereof, and the Court being fully advised in the premises:

I.

**VIOLATION OF SECTION 17(a)(1)
OF THE SECURITIES ACT**

IT IS HEREBY FURTHER ORDERED that Beni, his officers, agents, servants, employees, attorneys in fact, and those persons in active concert or participation with him and each of them, 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 use of the mails, be and they hereby are, permanently restrained and enjoined from, knowingly or recklessly, directly or indirectly, employing any devices, schemes or artifices to defraud purchasers of such securities in violation of Section 17(a)(1) of the Securities Act, 15 U.S.C. § 77q(a)(1).

II.

**VIOLATION OF SECTION 10(b) OF
THE EXCHANGE ACT AND RULE 10b-5 THEREUNDER**

IT IS HEREBY FURTHER ORDERED that Beni, his officers, agents, servants, employees, attorneys in fact, and those persons in active concert or participation with them, and each of them, in connection with the purchase or sale of any security by use of any means or instrumentality of interstate commerce or of the mails, or by use of any facility of any national securities exchange, be and they hereby are, permanently restrained and enjoined from, knowingly or recklessly, directly or indirectly, or as a control person under Section 20(a) of the Securities Exchange Act of 1934 ("Exchange Act"):

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 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 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.

III.

**VIOLATION OF SECTIONS 17(a)(2) AND 17(a)(3)
OF THE SECURITIES ACT**

IT IS HEREBY FURTHER ORDERED that Beni, his officers, agents, servants, employees, attorneys in fact, and those persons in active concert or participation with them and each of them, in connection with the offer or sale of any securities, by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, be and they hereby are, permanently restrained and enjoined from, directly or indirectly

1. obtaining money or property by means of untrue statements of material fact or any omission 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; or
2. engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchasers

in violation of Sections 17(a)(2) and 17(a)(3) of the Securities Act, 15 U.S.C. §§ 77q(a)(2) and 77q(a)(3).

IV

**VIOLATION OF SECTION
13 (b) (5) OF THE EXCHANGE ACT
AND RULES 13B2-1 AND 13B2-2**

IT IS HEREBY FURTHER ORDERED that Beni, his officers, agents, servants, employees, attorneys in fact, and those persons in active concert or participation with them, and each of them, directly or indirectly, be and they hereby are, permanently restrained and enjoined from, directly or indirectly, singly or in concert, or otherwise, by:

- (a) knowingly circumventing or knowingly failing to implement a system of internal accounting controls or knowingly falsifying any book, record, or account described in Section 13 (b)(2) of the Exchange Act;
- (b) directly or indirectly, falsifying or causing to be falsified, any book, record or account subject to Section 13(b)(2)(A) of the Exchange Act; or
- (c) making or causing to be made a material false or misleading statement, or 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 were made, not misleading to an accountant in connection with (1) any audit or examination of the financial statements of the issuer required to be made pursuant to this subpart or (2) the preparation or filing of any document or report required to be filed with the Commission pursuant to this subpart or otherwise,

in violation of Section 13(b)(5) of the Exchange Act , 15 U.S.C. §§ 78m(b)(5), and Rules 13b2-1 and 13b2-2, thereunder, 17 C.F.R. §§ 240.13b2-1 and 240.13b2-2.

V.

OFFICER AND DIRECTOR BAR

IT IS HEREBY FURTHER ORDERED that, pursuant to Section 21(d)(2) of the Exchange Act, defendant Beni is barred from acting as an officer or director of any issuer required to file reports pursuant to Section 12 of the Exchange Act for a period of five years from the date of this order.

VI.

PENALTIES

IT IS FURTHER ORDERED that based upon Defendant Beni's sworn representations in his Statement of Financial Condition dated July 8th, 1998 and submitted to the Commission, the Court is not ordering Beni to pay a civil penalty 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. §78 (d) (3). The determination not to impose a civil penalty and to waive payment of disgorgement and pre-judgment interest thereon is contingent upon the accuracy and completeness of Beni's Statement of Financial Condition. If at any time following the entry of this Final Order the Commission obtains information indicating that Beni'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, petition this Court for an order requiring Defendant to pay disgorgement, pre-judgment and post-judgment interest thereon, and a civil penalty. In connection with any such petition, the only issues shall be whether the financial information provided by Defendant 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 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 may not, by way of defense to such petition, challenge the validity of his 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.

VII.

INCORPORATION OF CONSENT

IT IS HEREBY FURTHER ORDERED that Defendant Beni shall comply with the provisions of the Consent attached hereto, and that such Consent is incorporated herein by reference as if fully set forth herein.

VIII.

NOTICES

IT IS HEREBY FURTHER ORDERED that, in the event Defendant Beni is no longer represented by counsel in this action, Defendant Beni shall provide the

Commission, at all times during the pendency of this action, with his current address for purposes of service of filings and other communications. Such notice shall be provided in writing to Regional Director, Securities and Exchange Commission, 1401 Brickell Avenue, Suite 200, Miami, Florida 33131. Should Defendant Beni fail to provide such notice, service by mail at Defendant Beni's last known address shall be deemed proper service.

IX.

RETENTION OF JURISDICTION

IT IS HEREBY FURTHER ORDERED that this Court shall retain jurisdiction over this matter and Defendant Beni in order to implement and carry out the terms of all Orders and Decrees that may be entered and/or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court, and will order other relief that this Court deems appropriate under the circumstances.

DONE AND ORDERED at 12:45 o'clock, p m. this 16th day of

July 1998, at Miami, Florida.



UNITED STATES DISTRICT JUDGE

cc:
Glenn A. Harris
Attorney for Plaintiff
Kenneth Robinson
Attorney for Defendant Beni
Maury H. Joseph, *pro se*