

File Closed

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION

FILED
SEP 12 2000
U.S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

SECURITIES AND EXCHANGE COMMISSION
450 Fifth Street, NW
Washington, D.C. 20549

Plaintiff,

No. 2: 98 CV 00075 (DJS)

v.

JOHN F. "PETE" OLIVER et al.,

Defendants.

FINAL JUDGMENT AS TO PATRICK M. JACOBI

Defendant Patrick M. Jacobi has entered a general appearance herein; admitted the jurisdiction of this Court over him and over the subject matter of this action; 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 the allegations of the complaint, except as to jurisdiction, which he admits, consents to the entry of this final judgment. It further appearing that this Court has jurisdiction over Jacobi and the subject matter hereof, and the Court being fully advised in the premises and there being no just cause for delay, **it is hereby ordered, adjudged and decreed** pursuant to Rule 54(b) of the Federal Rules of Civil Procedure as follows.

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I.

Jacobi, his agents, servants, employees, attorneys-in-fact, successors, and assigns and all those persons in active concert or participation with them who receive actual notice of this final judgment by personal service or otherwise, and each of them, be and they hereby are permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)] in the offer or sale of any securities by use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly:

- A. to employ any device, scheme, or artifice to defraud; or
- B. to obtain money or property by means of an untrue statement of a material fact or 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
- C. to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

II.

Jacobi, his agents, servants, employees, attorneys-in-fact, successors, and assigns and all those persons in active concert or participation with them who receive actual notice of this final judgment by personal service or otherwise, and each of them, be and they hereby are permanently restrained and 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 [17 C.F.R. § 240.10b-5] promulgated thereunder, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails, or any facility of any national securities exchange:

- A. to employ any device, scheme, or artifice to defraud; or
- B. to make any untrue statement of a material fact or omit 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
- C. to engage 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.

Jacobi, his agents, servants, employees, attorneys-in-fact, successors, and assigns and all those persons in active concert or participation with them who receive actual notice of this final judgment by personal service or otherwise, and each of them, be and they hereby are permanently restrained and enjoined from violating Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Rule 13b2-1 [17 C.F.R. § 240.13b2-1] promulgated thereunder by:

- A. knowingly circumventing or knowingly failing to implement a system of internal accounting controls and/or knowingly falsifying any book, record or account described in Section 13(b)(2) of the Exchange Act [15 U.S.C. § 78m(b)(2)]; or
- 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 [15 U.S.C. § 78m(b)(2)(A)].

IV.

Based upon Jacobi's sworn representations in his Statements of Financial Condition dated August 17, 1998 and July 21, 2000, and submitted to the Commission, the Court is

not ordering him to pay 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)]. The determination not to impose civil penalties is 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 Jacobi'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 Jacobi, petition this Court for an order imposing civil penalties. In connection with any such petition, the only issues shall be whether the financial information provided by Jacobi 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 Jacobi 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. Jacobi 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 civil penalties should not be ordered

V.

In accordance with the terms of his consent, Jacobi agrees and undertakes that at the request of the Commission or its staff on reasonable notice and without service of a subpoena, he will (a) cooperate with the Commission and its staff and truthfully disclose all information

with respect to his activities and the activities of others about which the Commission or its staff may inquire; (b) testify in all investigations and administrative and judicial proceedings at which the Commission or its staff requests his testimony; (c) make himself available at all reasonable times as may be required by the Commission or its staff; and (d) produce any documents within his possession, custody or control, domestic or foreign, which are requested by the Commission or its staff. At all times, Jacobi agrees to give truthful and accurate information and testimony and not assert any evidentiary or other privilege in connection with the undertakings set forth in this paragraph other than the attorney-client privilege and the Fifth Amendment privilege against self-incrimination. Jacobi understands that his failure to testify truthfully or to comply with the above undertakings may result in contempt proceedings or charges of perjury and obstruction of justice.

VI.

There being no just cause for delay, the Clerk of the Court is hereby directed, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, to enter this final judgment forthwith.

SO ORDERED, this 12th day of September, 2000, Min.


UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT -- EASTERN MISSOURI
INTERNAL RECORD KEEPING

AN ORDER, JUDGMENT OR ENDORSEMENT WAS SCANNED, FAXED AND/OR MAILED TO THE
FOLLOWING INDIVIDUALS ON 09/13/00 by dbraun
2:98cv75 SEC vs Oliver

15:77 Securities Fraud

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SCANNED & FAXED BY:

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C. D. D.