

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
(West Palm Beach Division)

SECURITIES AND EXCHANGE COMMISSION,)

Plaintiff,)

v.)

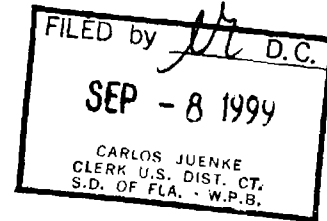
OMNIGENE DEVELOPMENT, INC.,)

f/k/a OMNIGENE DIAGNOSTICS, INC.,)

DOMINIC SCACCI and JEROME M. WENGER,)

Defendants.)

CASE NO. 98-8672-CIV-
RYSKAMP



**FINAL JUDGMENT OF PERMANENT INJUNCTION AND OTHER
RELIEF AS TO DEFENDANTS DOMINIC SCACCI AND OMNIGENE
DEVELOPMENT, INC., f/k/a OMNIGENE DIAGNOSTICS, INC.**

Plaintiff Securities and Exchange Commission ("Commission") commenced this action by filing its Complaint against, among others, Dominic Scacci ("Scacci") and OmniGene Development, Inc., f/k/a OmniGene Diagnostics, Inc. ("ODI"). In its Complaint, the Commission sought a permanent injunction to prohibit violations by ODI and Scacci of Sections 17(a) of the Securities Act of 1933 ("Securities Act") and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), and Rule 10b-5, thereunder. The Commission also sought other relief in the form of disgorgement and civil money penalties.

Defendants ODI and Scacci, by the Consents affixed hereto, without admitting or denying any of the allegations in the Commission's Complaint or any other paper filed herein, except as to the jurisdiction of this Court, have agreed to the entry of this Final Judgment of Permanent Injunction and Other Relief ("Final Judgment"). This Court having accepted such Consents and

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FAXBACK program, the parties are
no longer required to submit envelopes
with their motions & proposed orders.
Orders should include a full service list.

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this Court having jurisdiction over ODI and Scacci, and the subject matter hereof, and the Court being fully advised of the premises.

I.

**PERMANENT INJUNCTIVE RELIEF --
SECTION 17(a)(1) OF THE SECURITIES ACT**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendants ODI and Scacci, their directors, officers, agents, servants, employees, attorneys, and 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 directly or indirectly, by use of any means or instruments of transportation or communication in interstate commerce, or by the use of the mails, in the offer or sale of securities, knowingly or recklessly employing devices, schemes or artifices to defraud, in violation of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

II.

**PERMANENT INJUNCTIVE RELIEF --
SECTIONS 17(a)(2) & (3) OF THE SECURITIES ACT**

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendants ODI and Scacci, their directors, officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them, and each of them, are hereby permanently restrained and enjoined from directly or indirectly, by use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, in the offer or sale of securities (i) obtaining money or property by means of untrue statements of material facts or omissions to state material facts necessary to make the statements made, in light of the circumstances under which

they were made, not misleading; or (ii) engaging in acts, practices and courses of business which operate or would operate as a fraud or deceit upon purchasers and prospective purchasers of such securities, in violation of Sections 17(a)(2) & (3) of the Securities Act, 15 U.S.C. §§ 77(q)(a)(2) & (3).

III.

PERMANENT INJUNCTIVE RELIEF -- SECTION 10(b) OF THE EXCHANGE ACT AND RULE 10b-5

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendants ODI and Scacci, their directors, officers, agents, servants, employees, attorneys, and 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 directly or indirectly, by use of any means or instruments of transportation or communication in interstate commerce, or by the use of the mails, in the offer or sale of securities, knowingly or recklessly employing devices, schemes or artifices to defraud, 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.

IV.

DISGORGEMENT

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that ODI and Scacci jointly and severally pay disgorgement in the amount of \$442,000.00, representing their ill-gotten gains from the conduct alleged in the Complaint, plus pre-judgment interest thereon. Based upon ODI's and Scacci's sworn representations in their Statements of Financial Condition dated February 23, 1999, and submitted to the Commission, payment of the disgorgement and pre-judgment

interest thereon is waived, contingent upon the accuracy and completeness of their Statements of Financial Condition.

V.

PENALTIES

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that based upon ODI's and Scacci's sworn representations in their Statements of Financial Condition dated February 23, 1999, and submitted to the Commission, the Court is not ordering them to pay a civil penalty pursuant to Section 20(d) of the Securities Act, 15U.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 a civil penalty and to waive payment of the disgorgement and pre-judgment interest thereon is contingent upon the accuracy and completeness of ODI's and Scacci's Statements of Financial Condition. If at any time following the entry of this Final Judgment the Commission obtains information indicating that ODI's or Scacci's representations to the Commission concerning 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 ODI or Scacci, petition this Court for an order requiring ODI and/or Scacci 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 ODI and Scacci 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 ODI and/or Scacci to pay funds or assets, directing the forfeiture of any assets, or

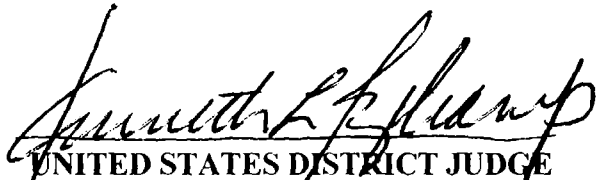
sanctions for contempt of this Final Judgment, and the Commission may also request additional discovery. ODI and Scacci may not, by way of defense to such petition, challenge the validity of their Consent or the Final Judgment, contest the allegations in the Complaint filed by the Commission, contest the amount of disgorgement and interest, or assert that disgorgement or the payment of a civil penalty should not be ordered.

VI.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction over this matter and over ODI and Scacci 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 3 o'clock, P. m. this 8th day of Sep., 1999,
at West Palm Beach, Florida.


UNITED STATES DISTRICT JUDGE
Kenneth L. Ryskamp

cc: Christian R. Bartholomew, Esq.
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