

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT
DISTRICT OF MASS.

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

TERRY V. KOONTZ, et al.,

Defendants and Relief Defendants

CIVIL ACTION NO.
98cv11904-NG

DOCKETED

FINAL JUDGMENT AGAINST DEFENDANT JEFFREY A. DEVILLE

Plaintiff Securities and Exchange Commission ("Commission"), having filed a Complaint and First Amended Complaint ("Complaint"); and Defendant Jeffrey A. DeVille ("J. DeVille"), in the annexed Consent of Defendant Jeffrey A. DeVille ("Consent"), having entered a general appearance, having admitted to the jurisdiction of this Court over him and over the subject matter of this action, having waived the entry of findings of fact and conclusions of law under Rule 52 of the Federal Rules of Civil Procedure with respect to this Final Judgment Against Defendant Jeffrey A. DeVille ("Final Judgment"), and, without admitting or denying the allegations of the Complaint, except as to jurisdiction and service, which he admits, having consented to the entry of this Final Judgment: permanently restraining and enjoining him from violating Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)], Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)], Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)], and Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)]; and ordering disgorgement of \$4,629,308, representing the ill-gotten gains he

received from the conduct alleged in the Complaint, plus prejudgment interest thereon, for which Defendant J. DeVille shall be jointly and severally liable with Defendant Mykael DeVille ("M. DeVille") and Relief Defendant Purr Trust, provided, however, that a portion is waived, as detailed in Section V herein, and moreover does not assess a civil penalty, based upon his sworn Financial Disclosure Statement, dated and executed December 22, 2000 ("Financial Statement"), demonstrating an inability to pay; and it further appearing that this Court has jurisdiction over Defendant J. DeVille and the subject matter hereof, and the Court being fully advised in the premises:

I.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant J. DeVille, his officers, agents, servants, employees, attorneys-in-fact, successors and assigns, and all 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 hereby are permanently restrained and enjoined from violating Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5] by, directly or indirectly, using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange:

- (a) to employ any device, scheme or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit 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
- (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.

II.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant J. DeVille, his officers, agents, servants, employees, attorneys-in-fact, successors and assigns, and all 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 hereby are permanently restrained and enjoined from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], by, directly or indirectly, in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, or of any facility of any national securities exchange:

- (a) to employ any device, scheme or artifice to defraud; or
- (b) to obtain 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
- (c) to engage in any transaction, act, practice, or course of business which operates or would operate as a fraud upon the purchaser.

III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant J. DeVille, his officers, agents, servants, employees, attorneys-in-fact, successors and assigns, and all 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

hereby are permanently restrained and enjoined from violating Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)], by, directly or indirectly, in the absence of any applicable exemption:

- (a) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell securities through the use or medium of a prospectus or otherwise, unless a registration statement is in effect as to such security;
- (b) carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any security for the purpose of sale or for delivery after sale, unless a registration statement is in effect as to such security; or
- (c) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of a prospectus or otherwise any security, unless a registration statement has been filed as to such security, or while a registration statement as to such security is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

IV.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant J. DeVille, his agents, servants, employees, attorneys-in-fact, successors and assigns and all 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 hereby are

permanently restrained and enjoined from violating Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)] by, directly or indirectly, effecting securities transactions for the account of others or engaging in business as a dealer without being registered as a broker-dealer or being associated with a registered broker-dealer for purposes of those transactions or that business.

V.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant J. DeVille pay, jointly and severally with Defendant M. DeVille and Relief Defendant Purr Trust, disgorgement in the amount of \$4,629,308, representing his gains from the conduct alleged in the Complaint, plus prejudgment interest thereon calculated at the rate established quarterly by the U.S. Internal Revenue Service for tax underpayments, compounded quarterly.

In partial payment of this disgorgement amount, Defendant J. DeVille has relinquished ownership, title and control of, and surrendered all rights to and beneficial interest in the following assets to the United States Marshal for the Middle District of Florida:

A. Real Estate

The real property located at the following addresses:

- (1) 800 South Gulfview Boulevard, # 303, Clearwater Beach, Florida;
- (2) 125 18th Street, Belleair Beach, Florida; and
- (3) 2918 Cutter Cove Court, Fort Wayne, Indiana.

B. Automobiles and Watercraft

The following automobiles and watercraft:

- (1) one 1997 BMW 740IL (vehicle identification number ("VIN"): WBAGJ832OVDL41936);
- (2) one 1998 BMW 328i (VIN: WBABK8324WEY87884);
- (3) one 1995 Cadillac Eldorado (VIN: IG6ET1297SU624147);
- (4) two 1998 Bombardier Sea-Doo jet skis; and
- (5) one Sea Ray power boat formerly named "In God We Trust".

C. Jewelry

The following items of jewelry:

- (1) one two-carat gem;
- (2) one ladies' Concord watch;
- (3) one two-carat gem purchased from Darren Daulton;
- (4) one ladies' gold bracelet;
- (5) one ladies' gold necklace;
- (6) one man's two-carat gold wedding ring; and
- (7) one man's Concord watch.

In further partial payment of this disgorgement amount, Defendant J. DeVille relinquishes as of the date of this Final Judgment all ownership, title and control of, and surrenders all rights to and beneficial interest in all cash and securities, and all cash, securities, bank and other accounts under Defendant J. DeVille's control or in which he has any interest, with such accounts to remain frozen pending deposit to the Court Registry as provided in paragraph VI. herein, including, but not limited to, the following:

Cash and Securities

| <u>Financial or Securities Institution</u> | <u>Name of Account</u> | <u>Account Number (if known)</u> |
|--|--|----------------------------------|
| Northern Trust Bank Tampa, FL | Purr Trust | 7510000498 |
| Northern Trust Bank Tampa, FL | Purr Trust | 924554983 |
| Barclays Bank Nevis, W.I. | Private Pool | 1140690 |
| Bank of Nevis Ltd. Nevis, W.I. | Paris Capital Ltd. | |
| Exchange Bank and Trust Nevis, W.I. | Paris Capital Ltd. and/or Atlantic Investments Ltd. | 4600-026 |
| Nevis American Trust Nevis, W.I. | Paris Capital Ltd. | |
| Nevis American Trust Nevis, W.I. | Atlantic Investments Ltd. | |
| AmSouth Bank Clearwater, FL | Jeffrey/Mykael DeVille | 3283142339 |
| Royal Bank of Scotland Nassau, Bahamas | Jeffrey/Mykael DeVille | |
| E*Trade Securities, Inc. Rancho Cordova, CA | Atlantic Investments Ltd. | 7532-1022 |
| E*Trade Securities, Inc. Rancho Cordova, CA | Paris Capital Ltd. | 1154-8001 |

VI.

IT IS FURTHER ORDERED that any financial or brokerage institution or other person or entity holding any funds or securities in the name, for the benefit, or under the direct or indirect control of Defendant J. DeVille, including, but not limited to, the institutions identified in paragraph V herein, and each of them, shall deposit to the Registry of this Court such funds or the liquidated market value of such securities,

immediately upon service of this Final Judgment upon them, by personal service or otherwise, including by facsimile transmission or overnight delivery.

VII.

IT IS FURTHER ORDERED that based upon Defendant J. DeVille's sworn representations in his Financial Statement he is not ordered to pay a civil monetary 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. § 77u(d)], and payment of the balance of total disgorgement and prejudgment interest thereon, less the dollar value of the assets surrendered pursuant to Section V of this FINAL JUDGMENT (the "Surrendered Amount"), is waived. The determination not to impose a civil penalty and the partial waiver of disgorgement is contingent upon the accuracy and completeness of Defendant J. DeVille's Financial Statement. If at any time following the entry of this FINAL JUDGMENT the COMMISSION obtains information indicating that Defendant J. DeVille'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 J. DeVille, petition this Court for an order requiring Defendant J. DeVille to pay the waived portion of the disgorgement, that is, four million, six hundred twenty-nine thousand, three hundred and eight dollars (\$4,629,308) less the Surrendered Amount, plus prejudgment and post-judgment interest on the total amount of disgorgement of \$4,629,308, and a civil penalty. In connection with any such petition, the only issue shall be whether the financial information provided by Defendant J. DeVille 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 J. DeVille to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of this FINAL JUDGMENT, and the COMMISSION also may request related discovery. Defendant J. DeVille 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, contest the amount of disgorgement and interest, or assert that disgorgement or the payment of a civil penalty should not be ordered.

VIII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant J. DeVille shall not make or cause to be made on his behalf any claim against any disgorgement fund created from assets disgorged by, or otherwise obtained from, any of the Defendants or Relief Defendants in this action, for distribution to investors who suffer or have suffered losses from the offer and sale of securities by any of the Defendants as alleged in this action.

IX.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the annexed Consent be, and hereby is, incorporated by reference herein with the same force and effect as if fully set forth herein.

X.

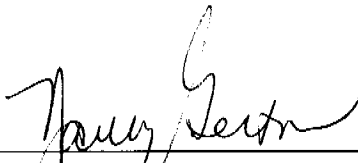
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction over Defendant J. DeVille as a party to this matter for all purposes including implementation and enforcement of the terms and conditions of this Final Judgment and discovery.

XI.

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

DONE AND ORDERED at Boston, Massachusetts, this 5 day of June,

2001.



HONORABLE NANCY GERTNER
UNITED STATES DISTRICT JUDGE