

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
Eastern Division

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|------------------------------------|---|---------------------------|
| SECURITIES AND EXCHANGE |) | |
| COMMISSION, |) | |
| |) | |
| Plaintiff, |) | |
| |) | Civil Action No. 99 C 609 |
| v. |) | Judge Conlon |
| |) | |
| FLOYD LELAND OGLE, <u>et al.</u> , |) | |
| |) | |
| Defendants. |) | |

DOCKETED
JUN 19 2000

**FINAL JUDGMENT OF PERMANENT INJUNCTION AND
OTHER RELIEF AS TO DEFENDANT FLOYD LELAND OGLE**

Plaintiff Securities and Exchange Commission ("Commission"),
having filed a Second Amended Complaint, and Defendant Floyd
Leland Ogle ("Ogle") in his attached Consent and Undertakings of
Floyd Leland Ogle ("Consent"), incorporated herein, having entered a
general appearance, having admitted the jurisdiction of this Court over
the subject matter of this action, having consented to the jurisdiction
of this Court over him, having waived the entry of findings of fact and
conclusions of law pursuant to Rule 52 of the Federal Rules of Civil
Procedure, having waived any right he might have to appeal from the
entry of this Final Judgment of Permanent Injunction and Other Relief

185

as to Floyd Leland Ogle ("Final Judgment"), and, without admitting or denying the allegations of the Second Amended Complaint (except as to jurisdiction, which he admits), having consented to the entry of this Final Judgment enjoining him from engaging in transactions, acts, practices and courses of business which constitute violations of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rules 10b-5 [17 C.F.R. § 240.10b-5] and Regulation M [17 C.F.R. Part 242] promulgated thereunder; and Section 5 of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77e]; and dismissing, with prejudice, claims against him in the Second Amended Complaint based upon Section 17(a) of the Securities Act; and requiring him to pay or cause to be paid \$571,000, which the Commission has claimed is disgorgement, together with prejudgment interest thereon of \$230,420, totaling \$801,420, and a civil penalty under Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)] in the amount of \$200,000; and prohibiting him permanently and unconditionally from acting as an officer or director of any issuer of securities that has a class of securities registered pursuant to Section 12 of the Exchange Act or that is required to file reports pursuant to Section 15(d) of such Act, and it further 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 Ogle, his agents, servants, employees, attorneys-in-fact and all those persons having active concert and 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, through the use of any means or instrumentality of interstate commerce or of the mails, or of the facilities of a 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 light of the circumstances under which they were made, not misleading, or
 - (3) engaging in any transaction, act, practice, or course of business which operates or would operate as a fraud or deceit on any person,
- in connection with the purchase or sale of any security;

in violation of Section 10(b) of the Securities Exchange Act of 1934 [15 U.S.C. § 78j(b)] and Rules 10b-5 [17 C.F.R. § 240.10b-5] and Regulation M [17 C.F.R. Part 242] promulgated thereunder.

II.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant Ogle, his agents, servants, employees, attorneys-in-fact and all those persons having active concert and 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, through the use of any means or instrumentality of interstate commerce or of the mails, or of the facilities of a national securities exchange:

- (1) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell a security, through the use or medium of any prospectus or otherwise, unless a registration statement is in effect as to such security;
- (2) carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or for delivery after

sale, any security, unless a registration statement is in effect as to such security; or

- (3) 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 any prospectus or otherwise any security, unless a registration statement has been filed with the Commission 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 of examination under Section 8 of the Securities Act [15 U.S.C. § 77h];

in violation of Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and (c)], in the absence of any applicable exemption.

III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Ogle pay a civil penalty of \$200,000 pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. §78u (d)(3)].

IV.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Ogle pay \$571,000, which the Commission has claimed is

disgorgement, together with prejudgment interest in the amount of \$230,420, for a total of \$801,420.

V.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Ogle pay the \$200,000 described in paragraph III representing a civil penalty to the United States Treasury within sixty (60) calendar days from the entry of this Final Judgment. Such payment shall be: (a) made by United States postal money order, certified check, bank cashier's check or bank money order; (b) made payable to the "Securities and Exchange Commission"; (c) hand-delivered or mailed to the Comptroller, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, Virginia 22312; and (d) submitted with a cover letter that identifies Ogle as the defendant in this action, the caption and civil action number of this action, and the name of this Court. Copies of such check or money order and accompanying cover letter shall be simultaneously transmitted to counsel of record for the Commission, Kenneth L. Miller, Esq., Assistant Chief Litigation Counsel, 450 Fifth Street, N.W., Mail Stop 8-8, Washington, D.C. 20549-0808.

VI.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Ogle shall pay \$571,000, which the Commission has claimed is disgorgement, described in paragraph IV into the registry of the Court pursuant to the following schedule:

- (1) \$50,000 to be paid on the sixtieth day after entry of this Final Judgment;
- (2) \$250,000 plus post-judgment interest at the statutory rate specified in 28 U.S.C. § 1961(a) from the sixty first day after entry of this Final Judgment, to be paid on the one hundred twentieth day after entry of this Final Judgment;
- (3) \$250,000 plus post-judgment interest at the statutory rate specified in 28 U.S.C. § 1961(a) from the sixty first day after entry of this Final Judgment, to be paid on the one hundred eightieth day after entry of this Final Judgment;
- (4) \$251,420 plus post-judgment interest at the statutory rate specified in 28 U.S.C. § 1961(a) from the sixty first day after entry of this Final Judgment, to be paid on the two hundred fortieth day after entry of this Final Judgment.

Such payments shall be made by United States postal money order, certified check, bank cashier's check, or bank money order drawn to the order of "Clerk, United States District Court, N.D. Ill." At the same time each payment is remitted, Defendant Ogle shall send a photocopy of his United States postal money order, certified check, bank cashier's check, or bank money order to the Secretary of the Commission at the following address:

Office of the Secretary
Securities and Exchange
Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-0609

The photocopy shall be accompanied by a letter that identifies Defendant Ogle, the civil action number assigned to the Second Amended Complaint, the District Court in which the Second Amended Complaint and this Final Judgment were filed, and the Commission's internal case number (HO-3138). A copy of such letter to the Secretary of the Commission shall be sent simultaneously to counsel of record for the Commission, Kenneth L. Miller, Esq., Assistant Chief Litigation Counsel, 450 Fifth Street, N.W., Mail Stop 8-8, Washington, D.C. 20549-0808.

VII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Commission's claim against Ogle in the Second Amended Complaint based upon Section 17(a) of the Securities Act be, and the same hereby is, dismissed with prejudice.

VIII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Ogle be, and hereby is, permanently and unconditionally prohibited from acting as an officer or director of any issuer of securities that has a class of securities registered pursuant to Section

12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to Section 15(d) of such Act.

IX.

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

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction of this action for all purposes, including the implementation and enforcement of this Final Judgment.

* * *

There being no reason 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.


UNITED STATES DISTRICT JUDGE

Date: 15 JUNE 2000