

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

TODD HANSEN and NICHOLAS LOBUE,

Defendants.

Civil Action No.: 99 C 6386

Judge Milton I. Shadur

**DOCKETED
DEC 18 2000**

**FINAL JUDGMENT AND ORDER OF PERMANENT INJUNCTION
AND OTHER EQUITABLE RELIEF AGAINST NICHOLAS LOBUE**

Plaintiff, Securities and Exchange Commission ("Commission"), having filed a Complaint for a Permanent Injunction and Other Equitable Relief ("Complaint") in this matter, and Defendant Nicholas LoBue ("Defendant LoBue"), in his Consent and Stipulation attached hereto as Exhibit 1 and incorporated herein ("Consent"), having acknowledged receipt of the Complaint and admitted the jurisdiction of this Court over him, and both the Commission and Defendant LoBue having waived the entry of findings of fact and conclusions of law as provided by Rule 52 of the Federal Rules of Civil Procedure, and Defendant LoBue, without admitting or denying the allegations of the Complaint except as to jurisdiction, and without trial, argument, or adjudication of any issue of fact or law herein, having consented to the entry of this Final Judgment and Order of Permanent Injunction and Other Equitable Relief ("Final Judgment"), and it further appearing that the Court has jurisdiction over the parties and the subject matter hereof, and the Court being fully advised in the premises:

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I.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Defendant LoBue, his agents, servants, employees, attorneys, and those persons in active concert or participation with him 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, directly or indirectly, as principals or aiders and abettors, 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 the use of the mails

- (1) employing any device, scheme or artifice to defraud;
- (2) obtaining money or property by means of any untrue statement of a material fact or 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
- (3) engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser;

in violation of Sections 17(a)(1), (2) and (3) of the Securities Act of 1933 [15 U.S.C. §§77q(a)(1), (2) and (3)].

II.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant LoBue, his agents, servants, employees, attorneys, and those persons in active concert or participation with him 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, directly or indirectly, as principals or aiders and abettors, in connection with the purchase or sale of securities, by the

use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange

- (1) employing any device, scheme or artifice to defraud;
- (2) making any untrue statement of material fact or omitting 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
- (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 Securities Exchange Act of 1934 [15 U.S.C. §78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §240.10b-5].

III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant LoBue, his agents, servants, employees, attorneys, and those persons in active concert or participation with him 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 aiding and abetting any registered broker or dealer from effecting a transaction in, or inducing the purchase or sale of, any security unless the broker or dealer and all natural persons associated with the broker or dealer who effect, or are involved in effecting, such a transaction, are registered or approved in accordance with the standards of training, experience, competence, and other qualification standards (including but not limited to submitting and maintaining all required forms, paying all required fees and passing any required examinations) established by the rules of the national securities exchange or national securities association of which the broker or dealer is a member or under the rules of the Municipal Securities Rulemaking Board, in violation of Section 15(b)(7)

of the Securities Exchange Act of 1934 [15 U.S.C. §78o(b)(7)] and Rule 15b7-1 thereunder [17 C.F.R. §240.15b7-1].

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant LoBue pay disgorgement in the amount of \$208,373 ("disgorgement amount"), representing his gains from the conduct alleged in the Complaint, plus pre-judgment interest thereon. Based upon Defendant LoBue's sworn representations in his Statement of Financial Condition dated May 5, 2000 submitted to the Commission and attached hereto as Exhibit 2 ("Statement of Financial Condition"), payment of the disgorgement amount and pre-judgment interest thereon is waived, contingent upon the accuracy and completeness of the Statement of Financial Condition.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that based upon Defendant LoBue's sworn representations in his Statement of Financial Condition submitted to the Commission and attached hereto as Exhibit 2, the Court is not ordering Defendant LoBue 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. §78u(d)(3)]. The determination not to impose a civil penalty is contingent upon the accuracy and completeness of Defendant LoBue's Statement of Financial Condition. **PROVIDED HOWEVER**, that if at any time following the entry of this Final Judgment, the Commission obtains information indicating that Defendant LoBue's representations to the Commission concerning his assets, income, liabilities, expenses 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 LoBue, petition this Court for an ordering requiring him to pay: (A) the

disgorgement amount and pre-judgment and post-judgment interest thereon; and (B) a civil penalty and post-judgment interest thereon. In connection with any such petition, the only issue shall be whether the financial information provided by Defendant LoBue was fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made, and the amount of civil penalty and interest payments to be imposed. In any such petition, the Commission may move this Court to consider all available remedies, including, but not limited to, ordering Defendant LoBue 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 LoBue may not, by way of defense to such petition: (A) challenge the validity of the Consent or this Final Judgment; (B) contest the allegations in the Complaint filed by the Commission; (C) contest the amount of disgorgement and pre-judgment and post-judgment interest thereon or the amount of the civil penalty and the post-judgment interest thereon; or (D) assert that payment of the disgorgement amount and pre-judgment and post-judgment interest thereon or payment of the civil penalty amount and the post-judgment interest thereon should not be ordered.

VI.

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

VII.

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

VIII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, there being no just reason for delay, the Clerk of the Court is hereby directed to enter this Final Judgment.

SO ORDERED:



Honorable Milton I. Shadur
Senior United States District Judge

Dated: Dec. 15, 2000