

ORIGINAL

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U.S. DISTRICT COURT  
DISTRICT OF KANSAS

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS  
WICHITA DIVISION

AUG 14 9 56 AM '00

RALPH L. DELCACH  
CLERK

BY  DEPUTY  
AT WICHITA, KS.

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

Civil Action No. 99-1483 MLB

ORACLE TRUST FUND;  
JUBILEE TRUST FUND;  
ELKOSH TRUST FUND;  
JEROME L. DEFRIES; and  
KEVIN S. MCQUEEN,

Defendants,

and

ROGER PEARSON, individually and d/b/a  
BIZ ENTERPRISES,

Defendant Solely for the Purpose  
of Equitable Relief.

**FINAL JUDGMENT AS TO JEROME L. DEFRIES**

This matter came before this Court on the 14 day of August, 2000, on Plaintiff's Motion for Summary Judgment Against Defendant Jerome L. DeFries for issuance of a Final Judgment in this action providing the relief set out herein. Based on Plaintiff's motion and the supporting papers thereto, this Court has *in personam* jurisdiction over Defendant DeFries, and subject matter jurisdiction over the cause of action claimed by the Commission; it appears that no further notice or hearing is required prior the entry of this Final Judgment and there is no just reason for delay; and it appears the Court has been fully advised of the premises for entry of this Final Judgment.

I.

IT IS HEREBY ORDERED that Jerome L. DeFries, 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, are permanently enjoined and restrained from violating, directly or indirectly, by use of the means or instrumentalities or interstate commerce, the mails, or any facility of any national securities exchange:

- (a) Section 17(a) of the Securities Exchange Act of 1933 [15 U.S.C. §77q(a)] by (1) employing any device, scheme or artifice to defraud, (2) obtaining money or property by means of any untrue statement of material fact or any omission to state a material fact necessary in order to make the statement made, in 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 the offer or sale of any securities;
- (b) Section 10(b) of the Securities Exchange Act of 1934 [15 U.S.C. §78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. §240.10b-5] by: (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 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 connection with the purchase or sale of any security; and
- (c) Section 5(a) and Section 5(c) of the Securities Act of 1933 [15 U.S.C. §§77e(a) & (c)] by making use of any means or instrument of transportation or communication in interstate commerce or of the mails (1) to sell a security through the use or medium of any prospectus or otherwise, (2) to carry or cause to be carried through the mails or in interstate commerce a security for the purpose of sale or for delivery

after a sale unless a registration statement is in effect as to that security, or (3) 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 Securities Exchange Commission as to that security, or while the registration statement is the subject of a refusal order or a stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act of 1933. [15 U.S.C. §77h].

II.

IT IS FURTHER ORDERED that Jerome L. DeFries shall pay disgorgement in the amount of \$7.4 million, representing the proceeds paid or attributable to him from the unlawful conduct described in the Commission's Complaint, plus prejudgment interest thereon in the amount of \$623,872. Defendant DeFries shall pay the disgorgement and prejudgment interest amounts within 10 days of entry of this Final Judgment. All payments made pursuant to this paragraph shall be made to the court-appointed receiver, David M. Rapp, by cashier's check, certified check or postal money order, under cover of a letter that identifies the defendant, the name and case number of this litigation and the name of this Court, with a copy of the cover letter simultaneously transmitted to counsel for the Commission in this action. The Commission may pursue such means as are appropriate and necessary at law or equity to collect these funds from Defendant DeFries or his agents or assigns, including, but not by way of limitation, obtaining writs of execution or law for real and personal property or funds, or pursuing collateral actions in this Court against persons holding funds or assets for or on behalf of Defendant DeFries.

III.

IT IS FURTHER ORDERED that, pursuant to Section 20(d) of the Securities Act of 1933, [15 U.S.C. §77t(d)], and Section 21(d)(3) of the Securities Exchange Act of 1934, [15 U.S.C.

§78u(d)(3)], Jerome L. DeFries is ordered to pay a civil penalty of \$ \_\_\_\_\_. After satisfaction of this Court's disgorgement order, Defendant DeFries shall pay the civil money penalty to the United States Treasury. The payment shall be in the form of a cashiers check, certified check or postal money order made payable to the "Securities and Exchange Commission." The check or money order shall be hand-delivered or mailed to the Comptroller, Securities and Exchange Commission, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and submitted under cover of a letter that identifies Defendant DeFries, the caption and case number of this action, and the name of the Court. A copy of the cover letter and check shall be sent to Harold F. Degenhardt, District Administrator, Securities and Exchange Commission, Fort Worth District Office, 801 Cherry Street, 19th Floor, Fort Worth, TX 76102. At such time as said monies are paid to the Commission, Wagman relinquishes all legal and equitable right, title, and interest in those funds and no part of such monies shall be returned to Wagman or his affiliates, heirs, successors, or assigns.

#### IV.

This Court shall retain jurisdiction over this action for all purposes, including for purposes of entertaining any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court, including but not limited to the relief requested by the Commission in its Complaint.

#### V.

This Final Judgment may be served upon Defendant DeFries in person or by mail either by the United States Marshal, the Clerk of the Court, or any member of the staff of the Securities and Exchange Commission.

VI.

There being no just reason for delay, the Clerk of this Court is hereby directed to enter this Final Judgment pursuant to rules 58 and 79, Fed. Rules Civ. Proc., 28 U.S.C.A.

SIGNED this 11<sup>th</sup> day of August, 2000.

Wendy Belk  
UNITED STATES DISTRICT JUDGE