

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 06-22440-CIV-LENARD/TORRES¹

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

U.S. GAS & ELECTRIC, INC., et al.,

Defendants.

**FINAL JUDGMENT OF PERMANENT INJUNCTION
AND OTHER RELIEF AGAINST DOUGLAS W. MARCILLE**

Defendant Douglas W. Marcille (“Marcille”) by the Consent annexed hereto, without admitting or denying any of the allegations in the Complaint filed by the Securities and Exchange Commission (“Commission”), except that he acknowledges service of the Complaint against him and admits the jurisdiction of this Court over him and over the subject matter of this action, has agreed to the entry of this Final Judgment of Permanent Injunction and Other Relief against Douglas W. Marcille (“Final Judgment”). Marcille has furthermore waived findings of fact and conclusions of law and has waived any right to appeal from this Final Judgment. This Court, having accepted Marcille’s Consent and having jurisdiction over Marcille and the subject matter of this action, and being fully advised in the premises, orders as follows:

¹ Pursuant to Administrative Order 2006-18 and beginning July 24, 2006, Magistrate Judge Edwin G. Torres has been temporarily paired with Judge Lenard for all new case assignments, all new referrals in existing cases, and all matters previously referred to Magistrate Judge Theodore Klein.

I.

PERMANENT INJUNCTION

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Marcille, his directors, officers, agents, servants, employees, attorneys, and those persons in active concert or participation with him, and each of them, are restrained and enjoined from:

Section 5 of the Securities Act of 1933

A. Directly or indirectly, (a) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell securities in the form of units, common stock, warrants or any other securities (including, but not limited to, the investment contracts, promissory notes or limited liability companies), through the use or medium of any prospectus or otherwise, unless and until a registration statement is in effect with the Commission as to such securities; (b) carrying securities, in the form of units, common stock, warrants or any other securities (including, but not limited to, the investment contracts, promissory notes or limited liability companies), or causing them 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, unless and until a registration statement is in effect with the Commission as to such securities; or © 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 securities, in the form of units, common stock, warrants or any other securities (including, but not limited to, the investment contracts, promissory notes or limited liability companies), unless a registration statement is filed with the Commission as to such securities, or while a registration statement filed with the Commission 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, in violation of Sections 5(a) and 5© of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e©, provided, however, that nothing in the foregoing portion of this injunction shall apply to any security or transaction which is exempt from the provisions of Section 5 of the Securities Act, 15 U.S.C. § 77e;

Section 17(a)(2) & (3) of the Securities Act of 1933

B. 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 have operated and will 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. §§ 77q(a)(2) & (3).

II.

DISGORGEMENT AND PENALTY

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$1, representing profits gained as a result of the conduct alleged in the Complaint, and a civil penalty in the amount of \$40,000 pursuant to Section 20(d) of the Securities Act, 15 USC § 77t(d).

III.

PAYMENT PLAN AND INSTRUCTIONS

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall satisfy the disgorgement and civil penalty ordered herein by paying a total of \$40,001 in four installments in accordance with the following schedule (“Payment Plan”):

(1) \$10,001 shall be due and payable within seven days of the entry of the Final Judgment; (2) \$10,000 shall be due and payable within three months of the entry of the Final Judgment; (3) \$10,000 shall be due and payable within six months of the entry of the Final Judgment; and (4) \$10,000 shall be due and payable within nine months of the entry of the Final Judgment. If Marcille fails to make any single payment, or part of any single payment, of the Funds within the precise time specified for such payment, the installment payment terms of this Final Judgment shall no longer apply, and the full amount of Marcille’s remaining unpaid disgorgement, prejudgment interest, and civil penalty shall be immediately due, owing and payable, plus post-judgment interest on such

remaining unpaid amount calculated at the rate of interest set forth in Rule 600(b) of the Commission's Rules of Practice, 17 C.F.R. § 201.600(b), from the date of entry of the Final Judgment until such amount is paid in full.

All payments due under the Payment Plan shall be made to the Clerk of this Court, together with a cover letter identifying Douglas W. Marcille as a defendant in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Final Judgment. Defendant shall simultaneously transmit photocopies of such payment and letter to: Robert K. Levenson, Regional Trial Counsel, U.S. Securities & Exchange Commission, 801 Brickell Avenue, Ste. 1800, Miami, FL 33131. By making this payment, Defendant relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Defendant. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961.

The Clerk shall deposit the funds into an interest bearing account with the Court Registry Investment System ("CRIS") or any other type of interest bearing account that is utilized by the Court. These funds, together with any interest and income earned thereon (collectively, the "Fund"), shall be held in the interest bearing account until further order of the Court. In accordance with 28 USC § 1914 and the guidelines set by the Director of the Administrative Office of the United States Courts, the Clerk is directed, without further order of this Court, to deduct from the income earned on the money in the Fund a

fee equal to ten percent of the income earned on the Fund. Such fee shall not exceed that authorized by the Judicial Conference of the United States.

The Commission may by motion propose a plan to distribute the Fund subject to the Court's approval. Such a plan may provide that Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002.

Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendant shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Defendant's payment of disgorgement in this action, argue that he is entitled to, nor shall he further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Defendant's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Defendant shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this Final Judgment. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Defendant by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

IV.

INCORPORATION OF CONSENT

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Marcille shall comply with the provisions of the Consent, and that the Consent is incorporated by reference into this Final Judgment as if fully set forth herein.

V.

RETENTION OF JURISDICTION

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction over this matter and Marcille in order to implement and carry out the terms of this Final Judgment and 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.

VI.

RULE 54(b) CERTIFICATION

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

DONE AND ORDERED this 23 day of October, 2006 at Miami, Florida.


HONORABLE JOAN A. LENARD
UNITED STATES DISTRICT COURT JUDGE

cc: U.S. Magistrate Judge Edwin G. Torres

All Counsel of Record

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W. MARCILLE