

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

SECURITIES AND EXCHANGE COMMISSION,
450 Fifth Street, N.W.
Washington, D.C. 20549

Plaintiff,

v.

BIO-TECH INDUSTRIES, INC., JOEY DAVIS,
LORETTA DAVIS, MIKE DAVIS, GREGORY
GILBERT AND STEVEN SCHWARTZ

Defendants.

98 Civ. 2298

FILED

DEC 11 1998

NANCY MAYER-WHITTINGTON, CLERK
U.S. DISTRICT COURT



FINAL JUDGMENT AS TO LORETTA DAVIS

Plaintiff Securities and Exchange Commission ("Commission"), having filed a Complaint, and defendant Loretta Davis ("Davis"), in her Consent and Undertakings ("Consent"), filed herewith, having entered a general appearance, having acknowledged receipt of the Complaint, having admitted the jurisdiction of the Court over her and the subject matter of this action, having waived the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, and, solely for the purpose of this action, without admitting or denying the allegations of the Complaint (except as to personal and subject matter jurisdiction), having consented to the entry of this Final Judgment as to Loretta Davis ("Final Judgment"); and it appearing that this Court has jurisdiction over Davis and the subject matter hereof, and the Court being fully advised in the premises, **IT IS HEREBY:**

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I.

ORDERED, ADJUDGED AND DECREED that Davis and her agents, servants, employees, attorneys-in-fact, and those persons in active concert or participation with them, and each of them, who receive actual notice of this Final Judgment by personal service or otherwise, be and hereby are permanently restrained and enjoined from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] by,

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, directly or indirectly --

- (1) employing any device, scheme, or artifice to defraud; or
- (2) obtaining 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
- (3) engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

II.

FURTHER ORDERED, ADJUDGED AND DECREED that Davis and her agents, servants, employees, attorneys-in-fact, and those persons in active concert or participation with them, and each of them, who receive actual notice of this Final Judgment by personal service or otherwise, be and hereby are permanently restrained and enjoined from violating Section

10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)], and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], by:

directly or indirectly, 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 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.

III.

FURTHER ORDERED, ADJUDGED AND DECREED that Davis is permanently and unconditionally prohibited from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78j] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

IV.

FURTHER ORDERED, ADJUDGED AND DECREED that Davis pay, jointly and severally with Barclay Davis, a defendant in the related action SEC v. Barclay Davis and World Syndicators, Inc., 97-CV-03056 (D.D.C. 1997), disgorgement in the amount of

\$662,572, representing monies or benefits that she derived from the conduct alleged in the Complaint, together with prejudgment interest thereon.

V.

FURTHER ORDERED, ADJUDGED AND DECREED that Davis shall take any and all actions directed by the Commission or the Court-appointed Receiver in SEC v. Davis, et al., 97-CV-03056 (D.D.C. 1997) (“Court-appointed Receiver”), to transfer, assign, or deliver to the Court-appointed Receiver, or cause the transfer, assignment, or delivery to the Court-appointed Receiver, within ten (10) days of the entry of the Final Judgment or at such other time as directed by the Commission or the Court-appointed Receiver, the following cash, securities, and other things of value: (1) all cash and securities in Davis’ possession, custody or control; (2) all cash and securities held in every account in Davis’ name, in which Davis has a beneficial, legal or other interest, or which Davis holds in trust for or jointly with any person, including, but not limited to, (a) any account held jointly in the names of Davis and Barclay Davis at Merrill Lynch, Pierce, Fenner & Smith Inc.; and (b) any account in the name of Davis at Worthington Capital Group Inc.; and (3) all right, title, and interest to all automobiles in Davis’ possession, custody, or control, except for Davis’ 1995 Jeep Sahara, including, but not limited to, her 1990 Rolls Royce Corniche and 1995 Pontiac Firehawk. Davis shall notify the Commission of each payment of cash and transfer, assignment, or delivery of securities or other things of value she makes pursuant to this Final Judgment by providing notice to: Erich T. Schwartz, Assistant Director, Division of Enforcement, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 7-6, Washington,

D.C. 20549. Such payments of cash and delivery of securities or other things of value shall thereafter be distributed pursuant to a plan for distribution of disgorgement funds, to be filed by the Commission or the Court-appointed Receiver with the Court, but in no event shall any of the funds, securities, or other things of value paid, transferred, assigned, or delivered to the Court-Appointed Receiver be returned, directly or indirectly, to Davis.

VI.

FURTHER ORDERED, ADJUDGED AND DECREED that all funds in the account held jointly in the names of Davis and Barclay Davis at U.S. Bank of Nevada, account number 8380027311, shall be wired by U.S. Bank of Nevada within three (3) business days of the entry of this Final Judgment to the United States Customs Suspense account: ABA# 021030004; Account number 20X6875(06); Agency Locator Code 20060094; Account Code 732; and AF TRACK 86980013. If, for any reason, Barclay Davis is not ordered to forfeit these funds pursuant to his criminal sentencing in U.S. v. Davis, CR-S-97-201 (D.C. Nev.), the funds shall be paid to the Court-appointed Receiver for distribution pursuant to a plan for distribution of disgorgement funds, to be filed by the Commission or the Court-appointed Receiver with the Court, but in no event shall any of the funds be returned, directly or indirectly, to Davis.

VII.

FURTHER ORDERED, ADJUDGED AND DECREED that Davis, without delay, shall take any and all reasonable steps to sell at a fair market value her right, title and interest to the residence at 3155 Loma Vista, Las Vegas, Nevada. Davis shall transfer all monies or

benefits derived from the sale of the residence to the United States Customs Suspense Account listed in Section VI above within three (3) business days of the receipt of such monies or benefits. If, for any reason, Barclay Davis is not ordered to forfeit such monies or benefits pursuant to his criminal sentencing in U.S. v. Davis, CR-S-97-201 (D.C. Nev.), such monies or benefits shall be paid to the Court-appointed Receiver for distribution pursuant to a plan for distribution of disgorgement funds, to be filed by the Commission or the Court-appointed Receiver with the Court, but in no event shall any of the funds be returned, directly or indirectly, to Davis. If, for any reason, Davis does not sell the residence in accordance with this Section, Barclay Davis shall forfeit the residence pursuant to his criminal sentencing in U.S. v. Davis, CR-S-97-201 (D.C. Nev.), or, if for any reason, Barclay Davis is not ordered to forfeit the residence pursuant to his criminal sentencing in U.S. v. Davis, CR-S-97-201 (D.C. Nev.), Davis immediately shall transfer her right, title, and interest to the Court-appointed Receiver.

VIII.

FURTHER ORDERED, ADJUDGED AND DECREED that upon the full performance of Davis' obligations under Sections V, VI, and VII and the actual payment, transfer, delivery, or assignment to the Court-appointed Receiver of good title to the cash, securities, automobiles, real estate, and other things of value listed in Section V, the collection of the remaining disgorgement shall be waived in reliance on the truthfulness and completeness of the representations in the Financial Disclosure Form of Barclay and Loretta Davis dated as of March 2, 1998 ("Financial Statement"), which was sworn to and submitted to the

Commission. Davis understands that the Court is waiving collection of a portion of disgorgement as described in Section IV, based upon her financial condition as set forth in the Financial Statement. She further agrees and consents that, if at any time following the entry of the Final Judgment, the Commission or the Court-appointed Receiver obtains information indicating that any of Davis' statements to the Commission or to the Court in this case, including, but not limited to, the representations in the Financial Statement, were fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time when such representations were made, the Commission or the Court-appointed Receiver may, at their discretion, petition the Court for an order requiring Davis to pay, in addition to the full amount of payment specifically set forth herein, such other illegal profits and proceeds that can be shown to have been received by or paid for the benefit of Davis, together with prejudgment interest thereon. In any such petition, the Commission or the Court-appointed Receiver may move the Court to consider any and all available remedies, including, but not limited to, ordering Davis to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of the Court's Final Judgment, and the Commission or the Court-appointed Receiver also may request additional discovery from Davis. Davis may not, by way of defense to such petition, challenge the validity of this Consent or the Final Judgment, or contest the allegations in the Complaint filed by the Commission.

IX.

FURTHER ORDERED, ADJUDGED AND DECREED that Davis, in conjunction with and in addition to all other obligations ordered by this Final Judgment, shall cooperate in all respects with the efforts of the Commission to carry out the terms of this Final Judgment or as the Commission requires in connection with any continuing investigation or litigation of the matters alleged in the Complaint or otherwise relating to ongoing nonpublic investigations including, but not limited to, those relating to Bio-Tech Industries, Inc. (formerly Twenty First Century Health, Inc.). As part of that cooperation, Davis shall, among other things, take any and all actions directed by the Commission to identify and effect the surrender of all of the proceeds of the fraud alleged in the Complaint held by the defendant or any other person, giving powers of attorney and assignments, and providing such testimony, information, and documents as is requested by the Commission.

X.

FURTHER ORDERED, ADJUDGED AND DECREED that Davis and her agents, servants, employees, attorneys-in-fact, and those persons in active concert or participation with them, and each of them, who receive actual notice of this Final Judgment by personal service or otherwise, are permanently enjoined for a period of three years from the date of this Final Judgment from destroying, mutilating, concealing, altering, or disposing of any items, including, but not limited to, any books, records, documents, contracts, agreements, assignments, obligations, tape recordings, computer media or other property, relating to the activities described in the Complaint.


XI.

FURTHER ORDERED, ADJUDGED AND DECREED that Davis shall comply with the annexed Consent which is incorporated herein with the same force as if fully set forth in this Final Judgment.

XII.

There being no just 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.

IT IS SO ORDERED.


UNITED STATES DISTRICT JUDGE

Dated: Dec. 10, 1998
Washington, D.C.