

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CV-99-523 (TCP)

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U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

LARRY F. SMATH, GREGORY R. SALVAGE,
JOSEPH T. FALCONE, PETER L. COHEN,
SETH J. GLASER, and FRANK J. ZANGARA,

Defendants.

**FINAL JUDGMENT OF PERMANENT INJUNCTIVE AND OTHER RELIEF
BY CONSENT AGAINST PETER L. COHEN**

Plaintiff Securities and Exchange Commission (the "Commission"), having commenced this action by filing its Complaint on January 27, 1999, against defendant Peter L. Cohen ("Cohen") for permanent injunctive and other relief ("Complaint"), charging Cohen with violations of Sections 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78j(b)], and Rule 10b-5 promulgated thereunder [17 C.F.R. §§ 240.10b-5], defendant Cohen having executed the annexed Consent of Peter L. Cohen ("Consent"), in which, without admitting or denying the allegations of the Complaint, he admits the in personam jurisdiction of the Court over him and the Court's jurisdiction over the subject matter of this action, and the service of the summons and Complaint on him, waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, and consents to the entry, without further notice, of this Final Judgment of Permanent Injunctive and Other Relief by Consent Against Peter L. Cohen ("Final Judgment"); and there being no just reason for delaying the entry of this Final Judgment:

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I.

IT IS ORDERED, ADJUDGED, AND DECREED that Cohen be and hereby is permanently enjoined and restrained from violating Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5, by, directly or indirectly, singly or in concert, in connection with the purchase or sale of any security, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange:

- (A) employing any device, scheme, or artifice to defraud;
- (B) 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
- (C) engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

II.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Cohen shall disgorge \$4,073.53, representing trading profits of \$2,329.50 in connection with the purchase and sale of securities, plus prejudgment interest thereon in the amount of \$1,744.03.

III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Cohen shall pay \$6,988.50 to the United States Treasury as a civil penalty pursuant to Section 21A of the Exchange Act, 15 U.S.C. § 78u-1.

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the monies to be paid pursuant to Paragraphs II and III of this Final Judgment shall be paid to the Treasury within thirty (30) days of the entry of this Final Judgment by postal money order, certified check, bank cashier's check or bank money order made payable to the order of the "United States Securities and Exchange Commission," and shall be transmitted to the Comptroller, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, Virginia 22312, under cover of letter that identifies the defendant, the name and civil action number of this litigation, and the court in which it was brought. The cover letter shall also contain the investigation name ("Certain Securities Mentioned in Business Week") and the case number assigned by the Commission staff (NY-6330) and shall identify the payment as payment of disgorgement and prejudgment interest in the amount of \$4,073.53 and a civil penalty in the amount of \$6,998.50. Copies of the cover letter and payment shall be simultaneously transmitted to: Eric M. Hansen, Esq., United States Securities and Exchange Commission, Northeast Regional Office, 233 Broadway, 16th Floor, New York, New York 10279.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Commission may effect service of this Final Judgment upon Cohen by delivering a copy to his attorney, Andrew E. Tomback, Milbank, Tweed, Hadley & McCloy, 1 Chase Manhattan Plaza, New York, New York 10005-1413, or another attorney entering an appearance for Cohen in this action.

VI.

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

VII.

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

VIII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Federal Rule of Civil Procedure 65(d), this Final Judgment is binding on Cohen, his agents, servants, employees, and attorneys, and upon those persons in active concert or participation with him who receive actual notice of this Final Judgment by personal service or otherwise.

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

Dated: 10/02, 2002



United States District Judge