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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DOC # 4

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

01 CV

3872

JUDGE KOELTL

v.

01, 1045

JORGE EDUARDO BALLESTEROS FRANCO,
TESTAMENTARIA DEL SEÑOR JOSE LUIS
BALLESTEROS FRANCO,
JOSE LUIS BALLESTEROS GUTIERREZ,
JUAN PABLO BALLESTEROS GUTIERREZ,
ALEJANDRO BALLESTEROS GUTIERREZ,
RICARDO BALLESTEROS GUTIERREZ,
EUGENIO MINVIELLE ZAMUDIO,
CARLOS MINVIELLE LAGOS,
SAGITTON LIMITED,
GIANNI ENTERPRISES LIMITED,
GIANNI TRUST,
CARDINAL TRUST,
CASFORD LIMITED,
INTERCONSULTING LIMITED,
DEHCOT S.A. de C.V.,
and PARKESBURG CORP.,

RECEIVED
MAY 29 2001
CHAMBERS OF
JUDGE JOHN G. KOELTL

Defendants.

U. S. DISTRICT COURT
FILED
MAY 31 2001
S. D. OF N. Y. *R.E.*

**JUDGMENT OF PERMANENT INJUNCTION AND OTHER
RELIEF AS TO DEFENDANT RICARDO BALLESTEROS GUTIERREZ**

Plaintiff Securities and Exchange Commission ("Commission") having filed a complaint ("Complaint"), and Defendant Ricardo Ballesteros Gutierrez ("Ricardo Ballesteros"), in the attached Consent and Undertakings of Defendant Ricardo Ballesteros Gutierrez ("Consent"), having entered a general appearance, having admitted the jurisdiction of this Court over him and over the subject matter of this action, having waived the filing of an answer to the Complaint, having waived the entry of findings of

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MAY 31 2001

U. S. DISTRICT COURT

fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, having waived any right he may have to appeal from the entry of this Judgment of Permanent Injunction and Other Relief as to Defendant Ricardo Ballesteros Gutierrez ("Judgment"), and, without admitting or denying any of the allegations of the Complaint, except as to jurisdiction, which he admits, having consented to the entry of this Judgment, and it further appearing that this Court has jurisdiction over Ricardo Ballesteros and the subject matter of this action, and the Court being fully advised in the premises:

I.

IT IS ORDERED, ADJUDGED AND DECREED that Defendant Ricardo Ballesteros, his agents, servants, employees, attorneys-in-fact and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise, and each of them, 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 promulgated thereunder [17 C.F.R. § 240.10b-5], directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of a national securities exchange 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.

II.

IT IS ORDERED, ADJUDGED AND DECREED that Defendant Ricardo Ballesteros, his agents, servants, employees, attorneys-in-fact and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise, and each of them, be and hereby are permanently restrained and enjoined from violating Section 14(e) of the Exchange Act [15 U.S.C. § 78n(e)] and Rule 14e-3 thereunder [17 C.F.R. § 240.14e-3] by, directly or indirectly, in connection with any tender offer or request or invitation for tenders, engaging in any fraudulent, deceptive or manipulative act or practice by (1) trading in the securities sought or to be sought in such tender offer while in possession of material, nonpublic information relating to such tender offer which they know or have reason to know is nonpublic and know or have reason to know was acquired directly or indirectly from the offering person, the issuer of the securities sought or to be sought by such tender offer, or any officer, director, partner, employee or other person acting on behalf of the offering person or such issuer, without disclosing such information and its source a reasonable time before trading, or (2) communicating material, nonpublic information relating to a tender offer, which information they know or have reason to know is nonpublic and know or have reason to know was acquired directly or indirectly from the offering person, the issuer of the securities sought or to be sought in the tender offer, or any person acting on behalf of the offering person or such issuer, to any other person under circumstances in which it is reasonably foreseeable that such communication is likely to result in violation of Section 14(e) and Rule 14e-3.

III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Ricardo Ballesteros is jointly and severally liable with Defendant Testamentaria Del Señor Jose Luis Ballesteros Franco ("Estate of Jose Luis Ballesteros Franco") for disgorgement in the amount of \$20,853.17, representing gains from the purchases of Nalco Chemical Company securities as alleged in the Complaint, together with prejudgment interest thereon in the amount of \$2,379.33.

IV.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Ricardo Ballesteros pay a civil penalty of \$20,853.17 pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1].

V.

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, in the event that the Estate of Jose Luis Ballesteros Franco does not pay the amounts described in paragraph III, then Ricardo Ballesteros shall pay those amounts within forty (40) days of the date of entry of this Judgment into the registry of this Court, for placement into an interest bearing account. In the event that Ricardo Ballesteros pays the amounts described in paragraph III, then he shall make such payment by United States postal money order, certified check, bank cashier's check or bank money order made payable to the order of "Clerk, U.S. District Court, S.D.N.Y.," and he shall remit such payment under cover of a letter that identifies Ricardo Ballesteros as the defendant in this action, the caption and case number of this action, and the name of this Court. Copies of such check or money order and accompanying cover letter shall be simultaneously transmitted to

Richard W. Grime, Esq., Branch Chief, Division of Enforcement, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0702.

VI.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Ricardo Ballesteros pay the amount described in paragraph IV, representing a civil penalty, to the United States Treasury within ten (10) days of the entry of this Judgment. Such payment shall be: (a) made by United States postal money order, certified check, bank cashier's check or bank money order; (b) made payable to the "Securities and Exchange Commission"; (c) hand-delivered or mailed to the Comptroller, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, Virginia 22312; and (d) submitted with a cover letter that identifies Ricardo Ballesteros as the defendant in this action, the caption and case number of this action, and the name of this Court. Copies of such check or money order and accompanying cover letter shall be simultaneously transmitted to Richard W. Grime, Esq., Branch Chief, Division of Enforcement, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0702.

VII.

IT IS ORDERED, ADJUDGED AND DECREED that the annexed Consent be, and the same hereby is, incorporated herein by reference with the same force and effect as if fully set forth herein.

VIII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction of this matter for all purposes, including the implementation and enforcement of this Judgment.

* * * *

There being no 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 Judgment forthwith.

5/29/01
Date

John G. Koeltz
UNITED STATES DISTRICT JUDGE

**THIS DOCUMENT WAS ENTERED
ON THE DOCKET ON 5/31/01**