


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 03-61553 CIV-SEITZ/Bandstra/Gonzalez

FILED BY  D.C.
MAR 21 2005
CLARENCE MAUDOX
CLERK U.S. DIST. CT.
S.D. OF FLA. FT. LAUD.

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

DAVID GANE, JEFFREY D. WELSH,
SOUTHERN FINANCIAL SERVICES,
INC., SOUTHERN WASTE, INC., dba
STRATEGIC INVESTORS GROUP,
CHARLES T. TAMBURELLO, and
CAPITAL RESEARCH GROUP, INC.,

Defendants.

AMENDED FINAL JUDGMENT

This cause came on for trial before the Court, the Honorable Jose A. Gonzalez presiding, on December 6, 2004, through and including December 13, 2004. The issues were duly tried, all parties being represented by counsel, and the Court considered the parties' briefs, evidence, objections, and arguments. The matter was submitted to the Court for decision, and on January 4, 2005, the Court issued its Findings of Fact and Conclusions of Law ("Findings of Fact and Conclusions of Law").

Based on the Court's Findings of Facts and Conclusions of Law, and good cause appearing,

IT IS ORDERED, ADJUDGED AND DECREED that:

1. Plaintiff Securities and Exchange Commission's ("Commission's") First Prayer for Relief, seeking the issuance of findings of fact and conclusions of law that Defendant Dr. David Gane ("Dr. Gane") committed the violations alleged in the Commission's Complaint, is DENIED, and Judgment is hereby entered in favor of Dr. Gane and against the Commission as to all claims brought by the Commission in this action for violations of Section 10(b) of the

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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].

2. Plaintiff Commission’s First Prayer for Relief, seeking the issuance of findings of fact and conclusions of law that Defendants Jeffrey D. Welsh (“Mr. Welsh”), Southern Financial Services, Inc. (“Southern Financial”), Southern Waste, Inc., dba Strategic Investors Group (“Strategic Investors”), Charles T. Tamburello (“Mr. Tamburello”), and Capital Research Group, Inc. (“Capital Research”) committed the violations alleged in the Commission’s Complaint, is GRANTED, and Judgment is hereby issued as follows:

a. Defendant Mr. Welsh violated Sections 17(a) and 17(b) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §§ 77q(a) & 77q(b)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

b. Defendants Southern Financial and Strategic Investors violated Sections 17(a) and 17(b) of the Securities Act [15 U.S.C. §§ 77q(a) & 77q(b)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

c. Defendants Mr. Tamburello and Capital Research violated Sections 17(a) and 17(b) of the Securities Act [15 U.S.C. §§ 77q(a) & 77q(b)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

3. Plaintiff Commission’s Second Prayer for Relief, seeking permanent injunctions against Defendant Dr. Gane, for violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], is DENIED.

4. Plaintiff Commission’s Second Prayer for Relief, seeking permanent injunctions against Defendants Mr. Welsh, Mr. Tamburello, and Capital Research, for violations of Sections 17(a) and 17(b) of the Securities Act [15 U.S.C. §§ 77q(a) & 77q(b)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], is DENIED.

5. Plaintiff Commission’s Second Prayer for Relief, seeking permanent injunctions against Defendants Southern Financial and Strategic Investors, for violations of Sections 17(a)

and 17(b) of the Securities Act [15 U.S.C. §§ 77q(a) & 77q(b)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], is GRANTED, and Judgment is hereby issued as follows:

a. Defendants Southern Financial, Strategic Investors, and their agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

b. Defendants Southern Financial, Strategic Investors, and their agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 17(b) of the Securities Act [15 U.S.C. § 77q(b)] by using the means or instruments of transportation or communication in interstate commerce or of the mails, to publish, give publicity to, or circulate any notice, circular, advertisement, newspaper, article, letter, investment service, or communication which, though not purporting to offer a security for sale, describes such security for consideration received or to be received, directly or indirectly, from an issuer, underwriter, or dealer, without fully disclosing the receipt, whether past or prospective, of such consideration and the amount thereof.

c. Defendants Southern Financial, Strategic Investors, and their agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, 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 using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit 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) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

6. Plaintiff Commission's Third Prayer for Relief seeking an order prohibiting Dr. Gane 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. § 781], or any issuer that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)], is DENIED.

7. Plaintiff Commission's Fourth Prayer for Relief, seeking disgorgement of all ill-gotten gains by Mr. Welsh, Southern Financial, Strategic Investors, Mr. Tamburello, and Capital Research, is DENIED.

8. Plaintiff Commission's Fifth Prayer for Relief, seeking civil penalties against Dr. Gane, under Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], is DENIED.

9. Plaintiff Commission's Fifth Prayer for Relief, seeking civil penalties against Mr. Welsh, Mr. Tamburello and Capital Research, under Section 20(d) of the Securities Act [15

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U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)] is

GRANTED, and Judgment is hereby issued as follows:

a. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Mr. Welsh shall pay a civil penalty in the amount of \$500 pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. Mr. Welsh shall make this payment within thirty (30) business days after entry of this Final Judgment by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. The payment shall be delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be accompanied by a letter identifying Mr. Welsh 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. A copy of the payment and the letter will be delivered or mailed to counsel for the Commission in this action. Mr. Welsh shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

b. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Mr. Tamburello shall pay a civil penalty in the amount of \$500 pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. Mr. Tamburello shall make this payment within thirty (30) business days after entry of this Final Judgment by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. The payment shall be delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be accompanied by a letter identifying Mr. Tamburello 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. A copy of the payment and the letter will be delivered or mailed to counsel for the Commission in this action. Mr.


Tamburello shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

c. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Capital Research shall pay a civil penalty in the amount of \$500 pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. Capital Research shall make this payment within thirty (30) business days after entry of this Final Judgment by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. The payment shall be delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be accompanied by a letter identifying Capital Research 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. A copy of the payment and the letter will be delivered or mailed to counsel for the Commission in this action. Capital Research shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

10. Costs may be taxed herein, in accordance with applicable law, and, upon appropriate application, will be entered by this Court.

11. This Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

Dated: March 21, 2005



Jose A. Gonzalez, Jr.
United States District Judge

SEC v. David Gane, et al.
United States District Court -Southern District of Florida
Miami Division
Case No. 03-61553-CIV-SEITZ/BANDSTRA
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SEC v. David Gane, et al.
United States District Court -Southern District of Florida
Miami Division
Case No. 03-61553-SEITZ/BANDSTRA
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