

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

IBIZ TECHNOLOGY CORP.,
KENNETH W. SCHILLING,
H. MARK PERKINS,
JEFFREY S. FIRESTONE,
D. SCOTT ELLIOTT, AND
JERROLD B. MCROBERTS,

Defendants.

No. CV 06-0502-PHX-JAT

Judgment

Final Judgment Against Defendant Jerrold B. McRoberts

The Court finds that Plaintiff Securities and Exchange Commission (“Commission”) has filed a Complaint; and Defendant Jerrold B. McRoberts has entered a general appearance, consented to the Court’s jurisdiction over him and the subject matter of this action, consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction), waived findings of fact and conclusions of law, and waived any right of appeal from this Final Judgment (Doc. #145). Accordingly,

I.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Jerrold B. McRoberts and his agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final

1 Judgment by personal service or otherwise, and each of them, are permanently
2 restrained and enjoined from violating Section 5 of the Securities Act of 1933
3 (“Securities Act”), 15 U.S.C. § 77e, by, directly or indirectly, in the absence of any
4 applicable exemption:

- 5 (a) Unless a registration statement is in effect as to a security, making use of any
6 means or instruments of transportation or communication in interstate
7 commerce or of the mails to sell such security through the use or medium of
8 any prospectus or otherwise;
- 9 (b) Unless a registration statement is in effect as to a security, carrying or causing
10 to be carried through the mails or in interstate commerce, by any means or
11 instruments of transportation, any such security for the purpose of sale or for
12 delivery after sale; or
- 13 (c) Making use of any means or instruments of transportation or communication
14 in interstate commerce or of the mails to offer to sell or offer to buy through
15 the use or medium of any prospectus or otherwise any security, unless a
16 registration statement has been filed with the Commission as to such security,
17 or while the registration statement is the subject of a refusal order or stop
18 order or (prior to the effective date of the registration statement) any public
19 proceeding of examination under Section 8 of the Securities Act, 15 U.S.C. §
20 77h.

21 II.

22 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant
23 Jerrold B. McRoberts is liable for disgorgement of \$87,165 representing profits gained
24 as a result of the conduct alleged in the Complaint, together with prejudgment interest
25 thereon in the amount of \$33,553, for a total of \$120,718. Based upon Defendant’s
26 sworn representations in his Statement of Financial Condition dated January 2, 2009,
27 and other documents and information submitted to the Commission, however, the Court
28 is not ordering Defendant to pay a civil penalty, and payment of all but \$25,000 of the

1 disgorgement and pre-judgment interest thereon is waived. Defendant shall satisfy this
2 obligation by paying \$25,000 pursuant to the terms of the payment schedule set forth in
3 paragraph III below by certified check, bank cashier's check or United States postal
4 money order payable to the Securities and Exchange Commission, Operations Center,
5 6432 General Green Way, mail Stop 0-3, Alexandria, Virginia 22312, and shall be
6 accompanied by a letter identifying Jerrold R. McRoberts as a defendant in this action;
7 setting forth the title and civil action number of this action and the name of this Court;
8 and specifying that payment is made pursuant to this Final Judgment. The Commission
9 shall remit the funds paid pursuant to this paragraph to the United States Treasury.
10 Defendant shall also pay post-judgment interest on any delinquent amounts pursuant to
11 28 U.S.C. § 1961. The determination not to impose a civil penalty and to waive
12 payment of all but \$25,000 of disgorgement and prejudgment interest is contingent upon
13 the accuracy and completeness of Defendant's Statement of Financial Condition. If at
14 any time following the entry of this Final Judgment the Commission obtains
15 information indicating that Defendant's representations to the Commission concerning
16 his assets, income, liabilities, or net worth were fraudulent, misleading, inaccurate, or
17 incomplete in any material respect as of the time such representations were made, the
18 Commission may, at its sole discretion and without prior notice to Defendant, petition
19 the Court for an order requiring Defendant to pay the unpaid portion of the
20 disgorgement, pre-judgment and post-judgment interest thereon, and the maximum civil
21 penalty allowable under the law. In connection with any such petition, the only issue
22 shall be whether the financial information provided by Defendant was fraudulent,
23 misleading, inaccurate, or incomplete in any material respect as of the time such
24 representations were made. In its petition, the Commission may move this Court to
25 consider all available remedies, including, but not limited to, ordering Defendant to pay
26 funds or assets, directing the forfeiture of any assets, or sanctions for contempt of this
27 Final Judgment. The Commission may also request additional discovery. Defendant
28 may not, by way of defense to such petition: (1) challenge the validity of the Consent or

1 this Final Judgment; (2) contest the allegations in the Complaint filed by the
2 Commission; (3) assert that payment of disgorgement, pre-judgment and post judgment
3 interest or a civil penalty should not be ordered; (4) contest the amount of disgorgement
4 and pre-judgment and post judgment interest; (5) contest the imposition of the
5 maximum civil penalty allowable under the law; or (6) assert any defense to liability or
6 remedy, including, but not limited to, any statute of limitations defense.

7 III.

8 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Jerrold B.
9 McRoberts shall pay \$25,000 in two installments according to the following schedule:
10 (1) \$10,000 within ten days of entry of this Final Judgment plus post-judgment interest
11 pursuant to 28 U.S.C. § 1961; and (2) the balance of \$15,000 on or before one year of
12 the date of entry of this Final Judgment plus post-judgment interest pursuant to 28
13 U.S.C. § 1961. If Jerrold B. McRoberts fails to make any payment by the date agreed
14 or in the amount agreed according to the schedule set forth above, all outstanding
15 payments under this Final Judgment, including post-judgment interest, minus any
16 payments made, shall become due and payable immediately without further application
17 to the Court.

18 IV.

19 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to
20 Section 20(g) of the Securities Act, 15 U.S.C. § 77u(g), and Section 21(d)(6) of the
21 Exchange Act, 15 U.S.C. § 78u(d)(6), Defendant Jerrold B. McRoberts is barred for two
22 years from the entry of this Final Judgment from participating in an offering of penny
23 stock, including engaging in activities with a broker, dealer, or issuer for purposes of
24 issuing, trading, or inducing or attempting to induce the purchase or sale of any penny
25 stock. A penny stock is any equity security that has a price of less than five dollars,
26 except as provided in Rule 3a51-1 promulgated under the Exchange Act, 17 C.F.R. §
27 240.3a51-1.

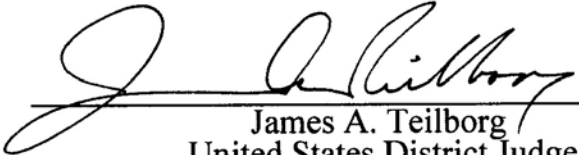
28 V.

1 IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this
2 matter for purposes of enforcing the terms of this Final Judgment.

3 VI.

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

7 Dated this 20th day of February, 2009.

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11 James A. Teilborg
United States District Judge
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