

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

PREMIERE POWER, LLC; JOHN JANKOVIC;
and JERRY JANKOVIC,

Defendants.

USDC SDNY
DOCUMENT
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DOC #: _____
DATE FILED: April 27, 2018

1:15-cv-01248-KPF
[rel. 14-cv-7588]

FINAL JUDGMENT AS TO DEFENDANT JOHN JANKOVIC

The Securities and Exchange Commission (“Commission”) having filed a Complaint and Defendant John Jankovic (“Jankovic”) having 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 (“Final Judgment”) without admitting or denying the allegations of the Complaint (except as to jurisdiction and except as otherwise provided herein in Paragraph VI); waived findings of fact and conclusions of law with respect to the Commission’s claims under Section 17(a)(1) of the Securities Act of 1933 (“Securities Act”) and Section 10(b) and Rule 10b-5 of the Securities Exchange Act of 1934 (“Exchange Act”); and waived any right to appeal from this Final Judgment; and

The Court having previously issued an Opinion and Order dated March 21, 2017, granting summary judgment in favor of the Commission and against John Jankovic with respect to the Commission’s claims under Securities Act Sections 17(a)(2) and (3), 15 U.S.C. §§ 77q(a)(2), (3); and

The Court having previously issued an Opinion and Order dated January 4, 2018, granting the Commission relief on its Section 17(a)(2) and (3) claims, permanently enjoining

John Jankovic from violations of Sections 17(a)(2) and (3); ordering him to disgorge \$450,000, plus \$121,039 in prejudgment interest, for which the Court made him jointly and severally liable with Jerry Jankovic and Premiere Power, LLC; and ordering him to pay a \$57,000 civil monetary penalty;

IT IS HEREBY ORDERED AND ADJUDGED THAT:

I.

PERMANENT INJUNCTION AS TO SECTION 17(a) OF THE SECURITIES ACT

John Jankovic is permanently restrained and enjoined from violating Sections 17(a)(1), (2) and (3) of the Securities Act, 15 U.S.C. § 77q(a)(1), (2), (3), 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: (i) to employ any device, scheme, or artifice to defraud; (ii) 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 (iii) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

Further, as provided in Rule 65(d)(2) of the Federal Rules of Civil Procedure, the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (i) John Jankovic's agents, servants, employees, and attorneys; and (ii) other persons in active concert or participation with him or with anyone described in (i).

II.

**PERMANENT INJUNCTION AS TO
SECTION 10(b) AND RULE 10b-5 OF THE EXCHANGE ACT**

John Jankovic is permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) and Rule 10b-5 of the Exchange Act, 15 U.S.C. § 78j(b) and 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: (i) to employ any device, scheme, or artifice to defraud; (ii) 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 (iii) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

Further, as provided in Rule 65(d)(2) of the Federal Rules of Civil Procedure, the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (i) John Jankovic's agents, servants, employees, and attorneys; and (ii) other persons in active concert or participation with him or with anyone described in (i).

III.

CONDUCT-BASED INJUNCTION

John Jankovic is permanently restrained and enjoined from directly or indirectly participating in the issuance, offer, or sale of any security in an unregistered offering by an issuer, unless he provides each potential purchaser of the securities with a copy of this Final Judgment simultaneous with the first written communication sent to such potential purchaser by or on behalf of John Jankovic or any entity he owns or controls.

IV.

DISGORGEMENT AND CIVIL PENALTY

John Jankovic is liable for disgorgement of \$450,000, representing profits gained as a result of the conduct alleged in the Complaint and falling within the statute of limitations, together with prejudgment interest thereon in the amount of \$121,039, for a total of \$571,039, for which his liability is joint and several with defendants Jerry Jankovic and Premiere Power, LLC.

Further, John Jankovic is liable for a civil penalty in the amount of \$57,000, pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d).

John Jankovic shall satisfy these obligations by paying \$628,039 to the Securities and Exchange Commission within 14 days after entry of this Final Judgment.

John Jankovic may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. John Jankovic may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

Enterprise Services Center
Accounts Receivable Branch
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court (*SEC v. Premiere Power, LLC, et al.*, 1:15-cv-01248-KPF (S.D.N.Y.); John Jankovic as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

John Jankovic shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action. By making this payment, John Jankovic relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to him.

The Commission shall hold the funds (collectively, the "Fund") and may propose a plan to distribute the Fund subject to the Court's approval. The Court shall retain jurisdiction over the administration of any distribution of the Fund. If the Commission staff determines that the Fund will not be distributed, the Commission shall send the funds paid pursuant to this Final Judgment to the United States Treasury.

The Commission may enforce the Court's judgment for disgorgement and prejudgment interest by moving for civil contempt (and/or through other collection procedures authorized by law) at any time after 14 days following entry of this Final Judgment. Defendant shall pay post judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, John Jankovic shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on his payment of disgorgement in this action, argue that he is entitled to, nor shall he further benefit by, offset or reduction of such compensatory damages award by the amount of any part of his payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, John Jankovic shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset

to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this Judgment. For purposes of this paragraph, a “Related Investor Action” means a private damages action brought against John Jankovic by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action, including the action captioned *Yu, et al. v. Premiere Power, LLC, et al.*, Case No. 14-cv-7588-KPF (S.D.N.Y.).

V.

INCORPORATION OF CONSENT

The Consent is incorporated herein with the same force and effect as if fully set forth herein, and John Jankovic shall comply with all of the undertakings and agreements set forth therein.

VI.

BANKRUPTCY NONDISCHARGEABILITY

Solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the allegations in the Complaint are true and admitted by John Jankovic, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by John Jankovic under this Final Judgment or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by John Jankovic of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

VII.

RETENTION OF JURISDICTION

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

Dated: April 27 2018

New York, New York



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE