

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION,		:
		:
Plaintiff,		:
		:
- against-		:
		:
ROBERT KORKUC,		:
		:
Defendant.		:
-----X		:

Civ. A. No. 03-3017 (LDW)
FILED
 IN CLERK'S OFFICE
 U.S. DISTRICT COURT E.D.N.Y.
 ★ AUG 14 2014 ★
 LONG ISLAND OFFICE

FINAL CONSENT JUDGMENT AS TO DEFENDANT ROBERT KORKUC

The Securities and Exchange Commission ("Commission") having filed a Complaint; Defendant Robert Korkuc ("Korkuc") having entered a general appearance and consented to the Court's jurisdiction over Korkuc and the subject matter of this action; and the Court having entered, with Korkuc's consent, a Partial Final Consent Judgment of Permanent Injunction and Other Relief as to Defendant Robert Korkuc ("Partial Consent Judgment"), which ordered, among other things, that (i) Korkuc be permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)] and Sections 10(b), 13(a), 13(b)(2) and 13(b)(5) of the Securities and Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78j(b), 78m(a), 78m(b)(2) and 78m(b)(5)] and Rules 10b-5, 12b-20, 13a-1, 13a-13, 13b2-1 and 13b2-2 thereunder [17 C.F.R. §§ 240.10b-5, 240.12b-20, 240.13a-1, 240.13a-13, 240.13b2-1 and 240.13b2-2]; and (ii) judgment on the Commission's requests for monetary relief be deferred to a later date:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Korkuc is liable for disgorgement of \$29,043.05 (“Disgorgement”), representing profits gained as a result of the conduct alleged in the Complaint together with prejudgment interest thereon in the amount of \$7,270.06, for a total of \$36,313.11. Korkuc shall satisfy this disgorgement obligation by paying \$36,313.11 to the Clerk of this Court in the following manner:

- (A) Korkuc shall pay \$10,000.00 within 14 days after entry of this Final Judgment (the “Final Consent Judgment”).
- (B) Beginning ninety days from the entry of this Final Consent Judgment, Korkuc shall pay the remaining \$26,313.11, plus postjudgment interest thereon of \$31.58, in four equal installments of \$6,586.17. The first quarterly installment payment shall be paid ninety days from the entry of this Final Consent Judgment, and each succeeding payment shall be paid ninety days from the date on which the immediately preceding payment was due.
- (C) In the event that Korkuc fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, at any time thereafter all outstanding payments under this Final Consent Judgment, minus any payments made, including post-judgment interest, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Court.
- (D) Korkuc may prepay the outstanding balance at any time without penalty, and if such prepayment is made, post-judgment interest owed will be calculated accordingly.

Each of the foregoing payments shall be accompanied by a cover letter addressed to the Clerk of the Court identifying Robert Korkuc 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 Consent Judgment. Korkuc shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action, Todd D. Brody, Esq., U.S. Securities and Exchange Commission, New York Regional Office, Brookfield Place, 200 Vesey Street, Suite 400, New York, NY 10281 and to John Graubard, Esq., U.S. Securities and Exchange Commission, New York Regional Office, Brookfield Place, 200 Vesey Street, Suite 400, New York, NY 10281.

By making this payment, Korkuc relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to Korkuc. The Clerk shall deposit the funds into an interest bearing account with the Court Registry Investment System ("CRIS") or any other type of interest bearing account that is utilized by the Court. These funds, together with any interest and income earned thereon (collectively, the "Fund"), shall be held in the interest bearing account until further order of the Court. In accordance with 28 U.S.C. § 1914 and the guidelines set by the Director of the Administrative Office of the United States Courts, the Clerk is directed, without further order of this Court, to deduct from the income earned on the money in the Fund a fee equal to ten percent of the income earned on the Fund. Such fee shall not exceed that authorized by the Judicial Conference of the United States. The Commission may by motion propose a plan to distribute the Fund subject to the Court's approval.

The Commission may enforce the Court's judgment for disgorgement 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 Consent Judgment. Korkuc shall pay post judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that based on the sentence Korkuc received pursuant to his guilty plea in *U.S. v. Korkuc* and his cooperation with criminal authorities in *U.S. v. Razmilovic* and in the related Commission enforcement action, the Court is not ordering Korkuc to pay a civil penalty. If at any time following the entry of this Final Consent Judgment as to Defendant Robert Korkuc (“Final Consent Judgment”) the Commission obtains information indicating that Korkuc knowingly provided materially false or misleading information or materials to the Commission or in a related proceeding, the Commission may, at its sole discretion and without prior notice to Korkuc, petition the Court for an order requiring Korkuc to pay a civil penalty. In connection with any such petition and at any hearing held on such a motion: (a) Korkuc will be precluded from arguing that he did not violate the federal securities laws as alleged in the Complaint; (b) Korkuc may not challenge the validity of this Final Consent Judgment, his consent hereto, dated June 11, 2014 and filed herewith (the “Consent”), the Partial Consent Judgment, his consent thereto, dated April 13, 2005 and filed therewith, or any related Undertakings; (c) the allegations of the Complaint, solely for the purposes of such motion, shall be accepted as and deemed true by the Court; and (d) the Court may determine the issues raised in the motion on the basis of affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence without regard to the standards for summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. Under these circumstances, the parties may take discovery, including discovery from appropriate non-parties.

III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Korkuc shall comply with all of the undertakings and agreements set forth therein.

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, 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 Korkuc, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Korkuc under this Final Consent 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 Korkuc 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).

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Consent Judgment.

