

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 04-80021-CIV-HURLEY/HOPKINS

SECURITIES AND EXCHANGE COMMISSION,)
)
Plaintiff,)
)
v.)
)
SUPERIOR OPPORTUNITIES, INC.,)
J.F. SIMMS & CO., LLC,)
WILLIAM J. HICKEY,)
SEAN A. OSBORNE and)
JON F. SIMMS,)
)
Defendants.)

**FINAL JUDGMENT OF DISGORGEMENT AND CIVIL
PENALTY AS TO DEFENDANT JON F. SIMMS**

Plaintiff Securities and Exchange Commission commenced this action by filing its Complaint against, among others, Defendant Jon F. Simms. In its Complaint, the Commission sought, among other relief, a permanent injunction to prohibit violations by Simms of Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §§ 77e(a), 77e(c), and 77q(a); and Section 10(b) and Rule 10b-5 of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5; an order providing for disgorgement and prejudgment interest; and imposition of a civil money penalty against Simms pursuant to Section 20(d) of the Securities Act and Section 21(d)(3) of the Exchange Act, 15 U.S.C. §§ 77t(d) and 78u(d)(3).

On October 5, 2004, the Court entered a Judgment by consent that permanently enjoined Simms from violating Sections 5 and 17(a) of the Securities Act and Section 10(b) and Rule 10b-5 of the Exchange Act. [D.E.57] The October 5, 2004 Judgment also ordered Simms to pay

disgorgement and a civil penalty in amounts to be set upon the Commission's motion. The Commission has now submitted Simms's Consent to the penalty and disgorgement amounts.

Simms, by the attached Consent, without admitting or denying the allegations of the Complaint, except that he admits the jurisdiction of this Court over him and over the subject matter of this action, has agreed to the entry of this Final Judgment of Disgorgement and Civil Penalty as to Jon F. Simms ("Final Judgment"). Simms has furthermore waived findings of fact and conclusions of law and has waived any right to appeal from this Final Judgment. This Court having accepted Simms's Consent, having jurisdiction over Simms and the subject matter of this action, and being fully advised in the premises, orders as follows:

I.

DISGORGEMENT AND CIVIL PENALTY

IT IS ORDERED AND ADJUDGED that Simms is liable for disgorgement of \$2,367,350, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$61,657.62, and a civil penalty in the amount of \$50,000 pursuant to Section 20(d) of the Securities Act and Section 21(d) of the Exchange Act, 15 U.S.C. §§ 77t(d) and 78(d)(3), for a total of \$2,479,007.62. Simms shall satisfy this obligation by paying \$2,479,007.62 within ten 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 Simms 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. Simms shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

II

INCORPORATION OF CONSENT

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

III.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED AND ADJUDGED that this Court will retain jurisdiction over this matter and Simms in order to implement and carry out the terms of all Orders and Decrees that may be entered and/or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court, and will order other relief that this Court deems appropriate under the circumstances.


IV.

RULE 54(b) CERTIFICATION

IT IS FURTHER ORDERED AND ADJUDGED that there being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

DONE AND ORDERED in Chambers at West Palm Beach, Florida, this 22nd day of

July, 2009.



DANIEL T. K. HURLEY
UNITED STATES DISTRICT JUDGE

Copies furnished to:

All counsel of record