



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION,	:
	:
Plaintiff,	:
	:
- against -	:
	:
COBALT MULTIFAMILY INVESTORS I, LLC,	:
COBALT MULTIFAMILY CO. I, LLC,	:
COBALT CAPITAL FUNDING, LLC,	:
MARK A. SHAPIRO,	:
IRVING J. STITSKY, and	:
WILLIAM B. FOSTER,	: 06 Civ. 2360 (KMW)
	:
Defendants,	:
and,	:
	:
VAIL MOUNTAIN TRUST,	:
Relief Defendant.	:
	:
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**[PROPOSED] FINAL JUDGMENT AS TO DEFENDANTS
MARK A. SHAPIRO, IRVING J. STITSKY, AND WILLIAM B. FOSTER**

The Court, having considered Plaintiff’s Motion for Entry of Judgment by Default Against Defendants Mark A. Shapiro, Irving J. Stitsky, and William B. Foster, the Declaration of Nancy A. Brown, executed March 3, 2011, and the Exhibits attached thereto, the Memorandum of Law in Support, dated March 3, 2011, and all prior proceedings herein, and for good cause shown, it is hereby ORDERED, ADJUDGED, and DECREED that:

I.

Defendants Mark A. Shapiro, Irving J. Stitsky, and William B. Foster (collectively, the “Defaulting Defendants”), 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, courier, email, facsimile or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (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.

II.

Defaulting Defendants, 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, courier, email, facsimile or otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (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.

III.

Defaulting Defendants, 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, courier, email, facsimile or otherwise are permanently restrained and enjoined from violating, directly, or indirectly, singly or in concert, Sections 5(a) and 5(c) of the Securities Act, [15 U.S.C. §§ 77e (a) and (c)] in the offer or sale of any security, by use of any means or instruments of transportation or communication in interstate commerce or by use of the mails to offer or sell securities through the use or medium of a prospectus or otherwise when no registration statement has been filed or is in effect as to such securities and when no exemption from registration.

IV.

Defendant Irving J. Stitsky, and each of his agents, servants, employees, attorneys, and all persons in active concert or participation with him who receive actual notice of this Final Judgment by personal service, courier, email, facsimile or otherwise are permanently restrained

and enjoined from violating, directly or indirectly, Section 15(a) of the Exchange Act [15 U.S.C. §§78o(a)] by making use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) unless registered with the Commission as a broker or dealer in accordance with 15 U.S.C. §§78o(b).

V.

Defendant Stitsky is directed to comply with the Orders of the Commission, entered on August 18, 1998 and September 17, 2003, which barred him from association with any broker, dealer, investment company, investment adviser, or municipal securities dealer pursuant to Section 15(b)(6) of the Exchange Act, 15 U.S.C. § 78o(b)(6).

VI.

While Defaulting Defendants are liable for disgorgement together with prejudgment interest and civil penalties 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), such disgorgement and civil penalties shall be deemed satisfied by the orders of restitution and imprisonment entered against the Defaulting Defendants in *United States v. Mark A. Shapiro, Irving J. Stitsky, and William B. Foster*, 06-cr-00357 (S.D.N.Y.) (KMW).

VII.

The Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Judgment and Order and overseeing the Plan of Distribution, approved by Order, entered June 24, 2009.

VIII.

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.

Dated: 10-25, 2011
New York, New York

**The Clerk of Court is directed
to close this case. Any pending
motions are moot.**


UNITED STATES DISTRICT JUDGE

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

Date:

In Re:

-v-

Case #: ()

Dear Litigant,

Enclosed is a copy of the judgment entered in your case.

Your attention is directed to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, which requires that if you wish to appeal the judgment in your case, you must file a notice of appeal within 30 days of the date of entry of the judgment (60 days if the United States or an officer or agency of the United States is a party).

If you wish to appeal the judgment but for any reason you are unable to file your notice of appeal within the required time, you may make a motion for an extension of time in accordance with the provision of Fed. R. App. P. 4(a)(5). That rule requires you to show "excusable neglect" or "good cause" for your failure to file your notice of appeal within the time allowed. Any such motion must first be served upon the other parties and then filed with the Pro Se Office no later than 60 days from the date of entry of the judgment (90 days if the United States or an officer or agency of the United States is a party).

The enclosed Forms 1, 2 and 3 cover some common situations, and you may choose to use one of them if appropriate to your circumstances.

The Filing fee for a notice of appeal is \$5.00 and the appellate docketing fee is \$450.00 payable to the "Clerk of the Court, USDC, SDNY" by certified check, money order or cash. **No personal checks are accepted.**

Ruby J. Krajick, Clerk of Court

by: _____

, Deputy Clerk

APPEAL FORMS

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

-----X
-V-
-----X

NOTICE OF APPEAL

civ. ()

Notice is hereby given that _____
(party)
hereby appeals to the United States Court of Appeals for the Second Circuit from the Judgment [describe it]

entered in this action on the _____ day of _____, _____.
(day) (month) (year)

(Signature)

(Address)

(City, State and Zip Code)

Date: _____ () _____ - _____
(Telephone Number)

Note: You may use this form to take an appeal provided that it is received by the office of the Clerk of the District Court within 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

FORM 1

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

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MOTION FOR EXTENSION OF TIME
TO FILE A NOTICE OF APPEAL

civ. ()

Pursuant to Fed. R. App. P. 4(a)(5), _____ respectfully
(party)
requests leave to file the within notice of appeal out of time. _____
(party)
desires to appeal the judgment in this action entered on _____ but failed to file a
(day)
notice of appeal within the required number of days because:

[Explain here the "excusable neglect" or "good cause" which led to your failure to file a notice of appeal within the required number of days.]

(Signature)

(Address)

(City, State and Zip Code)

Date: _____

() _____
(Telephone Number)

Note: You may use this form, together with a copy of Form 1, if you are seeking to appeal a judgment and did not file a copy of Form 1 within the required time. If you follow this procedure, these forms must be received in the office of the Clerk of the District Court no later than 60 days of the date which the judgment was entered (90 days if the United States or an officer or agency of the United States is a party).

FORM 2

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

-----X
-V-
-----X

NOTICE OF APPEAL
AND
MOTION FOR EXTENSION OF TIME

civ. ()

1. Notice is hereby given that _____ hereby appeals to
(party)
the United States Court of Appeals for the Second Circuit from the judgment entered on _____.
[Give a description of the judgment]

2. In the event that this form was not received in the Clerk's office within the required time
_____ respectfully requests the court to grant an extension of time in
(party)
accordance with Fed. R. App. P. 4(a)(5).

a. In support of this request, _____ states that
(party)
this Court's judgment was received on _____ and that this form was mailed to the
(date)
court on _____
(date)

(Signature)

(Address)

(City, State and Zip Code)

Date: _____

() _____ - _____
(Telephone Number)

Note: You may use this form if you are mailing your notice of appeal and are not sure the Clerk of the District Court will receive it within the 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

APPEAL FORMS

FORM 3

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

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-V-
-----X

AFFIRMATION OF SERVICE

civ. ()

I, _____, declare under penalty of perjury that I have
served a copy of the attached _____

_____ upon _____

_____ whose address is: _____

Date: _____
New York, New York

(Signature)

(Address)

(City, State and Zip Code)