

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

JAISANKAR MARIMUTHU,

Defendant.

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CASE NO. 8:07CV94

DEFAULT JUDGMENT

This matter is before the Court on Plaintiff's Motion for Default Judgment against Defendant Jaisankar Marimuthu ("Defendant" or "Marimuthu"). (Filing No. 68). The Court finds that, having failed to answer or otherwise appear or plead to the allegations contained in the Complaint, Defendant Marimuthu is in default in this action.

BACKGROUND AND DISCUSSION

A. Complaint

This action was commenced by the Commission by the filing of the Summons and Complaint on March 12, 2007 (Filing No. 1). The Complaint alleges that the Defendant engaged in a modern, high-tech version of the traditional "pump-and-dump" market manipulation scheme. Specifically, the Commission alleges that the Defendant intruded into the online brokerage accounts of unsuspecting individuals, engaged in unauthorized trading, and manipulated the share price of several publicly traded companies.

B. Service of Process on Defendant

On January 29, 2009, the Defendant was personally served with copies of the Summons and Complaint at his detention facility in Kowloon, Hong Kong. (Filing No. 48.)

C. Clerk's Certificate of Default

On October 15, 2009, the Clerk of the Court certified that no Answer or other responsive pleading to the Summons and Complaint had been filed by or on behalf of the Defendant and that the time for the Defendant to answer had expired. (Filing No. 53).

As of the date of this Motion, the Defendant has not entered an appearance in this case, filed pleadings, or served pleadings upon the Plaintiff other than a defective motion to appoint counsel. (Filing Nos. 66, 67.) In denying the motion for appointment of counsel, the Court noted the procedural deficiency and denied the motion on its merits. (Filing No. 71.)

D. Good Cause Exists to Enter a Default Judgment Against Defendant

On October 29, 2009, the Commission filed a Motion for Default Judgment against the Defendant. (Filing No. 68). The Defendant has not filed an answer to the Complaint or any other responsive pleadings. The Court finds that good cause exists for granting the Commission's Motion for Default Judgment, Permanent Injunction, and Other Relief.

IT IS ORDERED:

1. The Commission's Motion for Default Judgment, Permanent Injunction and Other Relief Against the Defendant, Jaisankar Marimuthu, (Filing No. 68) is hereby granted.
2. Defendant and his agents, servants, employees, attorneys-in-fact, and those persons in active concert or participation with him who receive actual notice of this order by personal service or otherwise, and each of them, are enjoined and restrained from, directly or indirectly, by the use of 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:

(1) employing any device, scheme, or artifice to defraud;

(2) making any untrue statement of a material fact or omitting 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

(3) engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person in violation of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

3. Defendant and his agents, servants, employees, attorneys-in-fact, and those persons in active concert or participation with them who receive actual notice of this order by personal service or otherwise, and each of them, are enjoined and restrained from, directly or indirectly, 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 the use of the mails:

(1) employing any device, scheme, or artifice to defraud;

(2) obtaining 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 the light of the circumstances under which they were made, not misleading; or

(3) engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser in violation of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

4. Defendant is liable for disgorgement in the amount of \$108,600, representing his profits resulting from the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$21,981.66, for a total of \$130,581.66. Defendant shall satisfy this obligation by paying \$130,581.66 within ten business days to the Clerk of this Court, together with a cover letter identifying the submitting Defendant by name 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. Defendant shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action. By making this payment, Defendant relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Defendant. 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 propose a plan to distribute the Fund subject to the Court's approval. Defendant shall pay post-judgment interest on any delinquent amounts under 28 U.S.C. § 1961.

5. Defendant shall pay a third-tier civil penalty in the amount of \$650,000 Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. Defendant shall make the payment within ten (10) business days after entry of a 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 Defendant by name 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. Defendant shall pay post-judgment interest on any delinquent amounts under 28 U.S.C. § 1961. The Commission will remit the funds paid pursuant to this paragraph either to the United States Treasury, or to the Clerk of the Court for distribution under the Fair Fund provisions of Section 308 of the Sarbanes-Oxley Act of 2002.

6. The Commission may by motion propose a plan to distribute the Fund subject to the Court's approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil penalties under 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, Defendant shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Defendant's 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 Defendant's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, the affected Defendant 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 any Defendant by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

DATED this 15th day of December, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge