IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. Ryan M. Reynolds, Desmond J. Milligan, Jason W. Brola, Timothy T. Page, Market 99, Ltd., f/k/a eCarfly, Inc., Tryst Capital Group, LLC, Griffdom Enterprises, Inc., Testre, L.P., and Bellatalia, L.P., Defendants.	§ § § § § § § § § § § § § § § § §	CIVIL ACTION NO. 3:08-CV-01687-M

AMENDED JUDGMENT, INCLUDING PERMANENT INJUNCTION, AGAINST DESMOND J. MILLIGAN; JASON W. BROLA; MARKET 99, LTD.; TRYST CAPITAL GROUP, LLC; AND GRIFFDOM ENTERPRISES, INC.

Before the Court is the Motion for Default Judgment filed by the Securities and Exchange Commission ("Commission") against Defendants Desmond J. Milligan; Jason W. Brola; Market 99, Ltd., formerly known as eCarfly, Inc.; Tryst Capital Group, LLC; and Griffdom Enterprises, Inc. ("Defendants") [Docket Entry #43]. On February 20, 2009, the clerk made an entry of default against Defendants, pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

After considering the pleadings and evidence before the Court, the Court is of the opinion that the Motion should be **GRANTED** and hereby enters **JUDGMENT** against Defendants.

Federal Rule of Civil Procedure Rule 55(a) provides that the clerk must enter a party's default when the party, against whom a judgment for affirmative relief is sought, has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise. Rule 55(b) then

requires the plaintiff to apply to the district court in order to obtain a judgment by default. Under Rule 55(b)(2), the court "may conduct hearings or make referrals — preserving any federal statutory right to a jury trial — when, to enter or effectuate judgment, it needs to: (A) conduct an accounting; (B) determine the amount of damages; (C) establish the truth of any allegation by evidence; or (D) investigate any other matter." However, where the amount of damages and/or costs can be determined with certainty by reference to the pleadings and supporting documents, and where a hearing would not be beneficial, a hearing is not required. Finally, additional requirements for entering a judgment by default apply where judgment is sought against a minor, an incompetent person, or the United States, its officers, and/or its agencies.

The Commission filed suit against Defendants for violations of the federal securities laws on September 24, 2008. Griffdom Enterprises, Inc. executed a waiver of service on October 21, 2008. Desmond J. Milligan executed a waiver of service on December 9, 2008. James W. Brola, individually and as the managing member of Tryst Capital Group, LLC and the president of Market 99, Ltd., was served with a copy of the summons and Complaint on December 15, 2008. Defendants failed to file an answer or other responsive pleading or otherwise to defend against the claims asserted against them. Each Defendant is not a minor or incompetent person, is not in military service, and is not a member of the U.S. government or a federal officer or agency. Thus, Defendants are in default. Because the Defendants have failed to appear in this case within the time period mandated by the Federal Rules, the Court accepts the Plaintiff's allegations as true.

Beginning in or around May 2006, Defendants Desmond J. Milligan ("Milligan"), Jason W. Brola ("Brola"), Ryan M. Reynolds ("Reynolds"), Timothy T. Page ("Page") and others entered into a scheme to distribute, offer, and sell the securities of eCarfly, Inc. ("eCarfly") to the

public through false and misleading announcements, while evading the registration requirements of the federal securities laws. Defendants planned to create a public company to sell used cars through the eBay Motors internet site. As part of the plan, Page acquired an inactive Minnesota shell corporation and gave controlling stock of the corporation to Milligan. Milligan became president and CEO, changed the name of the company to eCarfly, Inc., and caused eCarfly to issue shares to Testre, L.P. ("Testre"), Griffdom Enterprises, Inc. ("Griffdom"), Bellatalia, L.P. ("Bellatalia") and another entity. eCarfly found a merger partner in fall 2007, and changed its name to Market 99, Ltd. in December 2007. Milligan resigned, and Brola became president of the company.

Brola, Page, and Reynolds, through Tryst Capital Group, LLC ("Tryst Capital"), Griffdom, Testre, and Bellatalia, acted as underwriters for the sales of eCarfly stock, in that they acquired stock with a view to distribution, and offered and sold the eCarfly stock. No registration statement was ever filed with the SEC or in effect as to any of the offers and sales of eCarfly stock described herein. Page, Reynolds, Griffdom, and Bellatalia acted as unregistered broker-dealers by engaging in the business of underwriting public offerings and by inducing the purchase or sale of eCarfly stock. The shares of eCarfly were delivered or deposited into brokerage accounts by means of the mails or interstate commerce.

On June 21, 2006, Page opened a brokerage account for Griffdom and between July 27 and October 12, 2006, Page offered and sold 17,621,400 shares of eCarfly for net proceeds of approximately $1,125,610. On or about July 17, 2006, Milligan sold 10,000,000 shares of eCarfly to Bellatalia, 7,500,000 shares to Testre, and 2,500,000 shares to Griffdom. On or about July 18, 2006, Milligan sold 2,500,000 shares of eCarfly to Tiger Team Management Inc. ("Tiger") for ostensible consulting services. On August 1, 2006, Tiger transferred 2,000,000

shares to Tryst Capital and 500,000 shares to Bellatalia. Milligan and Brola knew or were reckless in not knowing that Tiger did not provide any consulting services to eCarfly. eCarfly received no funds from these initial sales.

In furtherance of their scheme, between July 28 and August 28, 2006, Milligan and Brola distributed false and misleading press releases through Business Wire to generate demand for eCarfly stock. The press releases indicated that eCarfly had partnerships or business relationships with AutoNation, CarMax, Inc. and Asbury Automotive Group, when eCarfly had no such relationships. At the time of the press releases, Brola and Milligan knew from a meeting with Asbury Automotive Group that eCarfly did not have a partnership with Asbury Automotive Group and also knew that eCarfly had little or no contact with the other companies.

Other press releases also included false or misleading information. One press release indicated that eCarfly was opening a finance division in Las Vegas, when it had neither the financial resources for a finance division nor any knowledge regarding the regulatory requirements for a business to offer financing to car buyers. Milligan and Brola claimed that eCarfly had entered into an agreement with another company to list 6,000 forklifts on eBay, when eCarfly lacked the software to list the forklifts and never made any attempts to do so.

Milligan, Brola, and eCarfly omitted the fact that the company did not have an automobile dealer's license and that eBay refused to let eCarfly make multiple listings of automobiles for sale without such a license. eCarfly's releases made a year-end projection of $3.4 million and concurred with an analyst who gave a target stock price of $6, at a time when eCarfly had no revenue or ability to generate revenue. Milligan and Brola never provided any details regarding eCarfly's financial condition, capital resources and liquidity, management,

competition, risk factors, or the anticipated uses of proceeds from the sales of its shares by Bellatalia, Griffdom, Testre, Tryst Capital, and others.

Reynolds introduced Milligan to Magnum Energy, Inc., a candidate for merger with eCarfly. In press releases issued on November 22, December 6, and December 8, 2006, eCarfly and Milligan announced that eCarfly was engaged in new merger plans. These press released failed to disclose that Magnum Energy's capital needs exceeded eCarfly's ability, and the merger was not completed. Beginning in February 2007, eCarfly and Milligan issued at least eleven press releases describing a proposed merger with an "alternative fuels" company, later identified as Terra Fuel Technologies, Inc ("Terra"). These press releases were false and misleading, because Terra did not produce alternative fuels.

Beginning on or about November 16, 2006, Page and Griffdom offered to sell and sold at least 252,073,165 eCarfly shares through Griffdom's brokerage account for net proceeds of approximately $589,154. From August 10, through October 26, 2006, Brola and Tryst Capital sold the 11,491,000 eCarfly shares for net proceeds of approximately $1,239,446.

Beginning on February 28, 2007 and continuing through March 22, 2007, Page and Testre offered to sell and sold 30,000,000 eCarfly shares through Testre's brokerage account for net proceeds of approximately $151,770. Page caused Testre to wire transfer $10,000 and $5,000 into the bank account of eCarfly on February 21 and 26, 2007, respectively. Page caused Griffdom to wire transfer into the bank account of eCarfly $15,000 on March 1, $15,000 on March 31, $10,000 on April 3, $50,000 on April 26, $40,000 on July 3, and $25,000 on August 22, 2007.

Although eCarfly generated no funds from any business operations between November 15, 2006 and July 15, 2007, Milligan caused eCarfly to pay approximately $42,264 to him and

his wife. The principal sources of these funds were proceeds from stock sales by Bellatalia, Griffdom, and Testre that were wire transferred to eCarfly.

Milligan, Brola, eCarfly, and Tryst Capital acted with scienter in making material misrepresentations and omissions in the press releases. To establish a violation of Section 10(b) and Rule 10b-5, the Commission must show that Defendants: "(1) used a fraudulent device, made a material misrepresentation or omission, or committed an act that operated as a fraud or deceit (2) in connection with the purchase or sale of securities and (3) acted with scienter."[1]

The misrepresentations and omissions in the press releases were material because there was a substantial likelihood that a reasonable shareholder would have considered the information important in deciding how to vote.[2] Milligan and Brola acted with scienter because they must have been aware of the false and misleading nature of the press releases that they created, and thus acted recklessly.[3] The scienter of Milligan, as an officer and agent of eCarfly, is imputed to the corporation. Brola's statements and omissions, made as the sole officer and owner of Tryst Capital, are imputed to Tryst Capital.

Defendants Milligan, Griffdom, Brola, Market 99 Ltd., and Tryst Capital violated Sections 5(a) and (c) of the Securities Act by offering or selling unregistered securities via the mails or interstate commerce.

The Commission has made a "proper showing" that each of the Defendants must be enjoined from violating Section 5 of the Securities Act, each Defendant except Griffdom must be

[1] *SEC v. Shapiro*, No. 4:05-cv-364, 2008 U.S. Dist. LEXIS 17039, at *10 (E.D. Tex. Mar. 5, 2008); *SEC v. Monarch Funding Corp.*, 192 F.3d 295, 308 (2d Cir. 1999).
[2] *See Basic, Inc. v. Levinson*, 485 U.S. 224, 232 (1988).
[3] *See Plotkin v. Axess Inc.*, 407 F.3d 690, 697 (5th Cir. 2005) ("Scienter encompasses reckless indifference such that the omission or misrepresentation was so obvious that the defendant must have been aware of it.") (internal quotations omitted).

enjoined from violating Section 10(b) of the Exchange Act and Rule 10b-5, and Griffdom must be enjoined from violating Section 15(a)(1) of the Exchange Act.[4]

Defendant Griffdom acted as an unregistered broker under section 15(a)(1) of the Securities Exchange Act of 1934.[5] Griffdom engaged in the regular business of effecting transactions in securities for the account of others by acting as an underwriter that sold shares of eCarfly and bought and sold eCarfly for its own account, by means of the mails or interstate commerce, while not registered as a broker-dealer with the SEC.

The Commission met its burden of showing that its disgorgement figures reasonably approximate the amount of unjust enrichment. The defaulting Defendants must disgorge their ill-gotten gains received as a result of their violations of the securities laws.

Because this case involved "fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement" and "directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons," third-tier civil penalties are imposed against each Defendant.[6] The false and misleading statements by the Defendants created the risk of substantial loss to investors who bought eCarfly shares at prices ranging from $0.30 to $3.48 and now hold shares valued at $0.0001 per share.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. Defendants Milligan, Brola, Market 99 Ltd., and Tryst Capital Group, LLC, their officers, directors, members, agents, servants, employees, attorneys, 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 permanently enjoined and restrained from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78j(b), and Rule

[4] 15 U.S.C. § 77t(b); 15 U.S.C. § 78u(d).
[5] 15 U.S.C. § 78o(a)(1).
[6] 15 U.S.C. § 77t(d)(2)(C); 15 U.S.C. § 78u(d)(3)(B)(iii); 17 C.F.R. § 201.10003.

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) making 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) engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

2. Defendants Milligan, Brola, Market 99 Ltd., Tryst Capital Group, LLC and Griffdom Enterprises, Inc, their officers, directors, members, agents, servants, employees, attorneys, 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 permanently enjoined and restrained from violating Section 5 of the Securities Act, 15 U.S.C. § 77e, directly or indirectly, in the absence of any applicable exemption:

(a) unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;

(b) unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or

(c) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or

medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding of examination under Section 8 of the Securities Act, 15 U.S.C. § 77h.

3. Defendant Griffdom Enterprises, Inc., its officers, members, agents, servants, employees and attorneys, and those persons in active concert or participation with Griffdom Enterprises, Inc., who receive actual notice of this Order by personal service or otherwise, are permanently enjoined and restrained from, directly or indirectly, violating Section 15(a) of the Exchange Act [15 U.S.C. § 78o] by acting as a broker or dealer unless registered as provided by law.

4. Defendant Market 99 Ltd is liable for disgorgement of $585,000 representing ill-gotten gains as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of $73,463, for a total of $658,463. Of the principal amount, Defendant Market 99 Ltd and Defendant Desmond Milligan are jointly and severally liable for $197,029 in disgorgement. Defendants Market 99 Ltd. and Milligan shall satisfy this obligation by paying jointly or severally $197,029 within ten business days of entry of this Order to the Clerk of the Court, together with a cover letter identifying either Market 99 Ltd or Milligan as the defendant in this action, setting forth the title and civil action number of this action and the name of this Court and specifying that the payment is made pursuant to this Order. Market 99 Ltd. shall pay the additional amount of $462,434 within ten business days of entry of this Order to the Clerk. Market 99 Ltd. shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action. By making this payment, Defendant Market 99

Ltd. relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to the Defendant.

5. Defendant Desmond Milligan is liable jointly and severally with Market 99 Ltd. for disgorgement of $197,029 representing ill-gotten gains as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of $24,743, for a total amount of $221,772. Defendant Milligan shall satisfy this obligation by paying jointly or severally $197,029 plus the additional pre-judgment interest of $24,743 within ten business days of entry of this Order to the Clerk of the Court, together with a cover letter identifying Milligan as the defendant in this action, setting forth the title and civil action number of this action and the name of this Court and specifying that the payment is made pursuant to this Order. Milligan shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action. By making this payment, Defendant Milligan relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to the Defendant.

6. Defendants Jason Brola and Tryst Capital Group LLC, are liable jointly and severally for disgorgement of $1,239,446 representing ill-gotten gains as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of $241,038, for a total amount of $1,480,484. Defendants Brola and Tryst Capital Group shall satisfy this obligation by paying jointly or severally $1,480,484 within ten business days of entry of this Order to the Clerk of the Court, together with a cover letter identifying Brola and Tryst Capital Group as the defendants in this action, setting forth the title and civil action number of this action and the name of this Court and specifying that the payment is made pursuant to this Order. Brola and Tryst Capital Group shall simultaneously transmit photocopies of such payment and letter to

the Commission's counsel in this action. By making this payment, Defendants relinquish all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to the Defendants.

7. Defendant Griffdom Enterprises, Inc. is liable for disgorgement of $1,714,764 representing ill-gotten gains as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of $292,885, for a total amount of $2,007,649. Defendant Griffdom Enterprises, Inc. shall satisfy this obligation by paying $2,007,649 within ten business days of entry of this Order to the Clerk of the Court, together with a cover letter identifying Griffdom Enterprises, Inc. 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 the payment is made pursuant to this Order. Griffdom Enterprises, Inc. 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 the Defendant.

8. 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 interests 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.

9. Defendants shall each pay a civil penalty in the amount of $120,000 pursuant to Section 20(d) of the Securities Act and Section 21 of the Exchange Act, 15 U.S.C. § 77t(d)(2)(C)(ii); 15 U.S.C. § 78u (d)(3)(B)(iii); 17 C.F.R. § 201.1003 (2007). Defendants Brola and Tryst Capital are jointly and severally liable for one civil penalty of $120,000 because they acted in concert. Defendants shall pay the civil penalties within ten (10) business days after entry of this Order 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's 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. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

10. Defendants shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

11. Pursuant to Section 21(d)(2) of the Exchange Act, 15 U.S.C. § 78u(d)(2), and Section 20(e) of the Securities Act, 15 U.S.C. § 77t(e), Defendants Milligan and Brola are prohibited from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act, 15 U.S.C. § 78l, or that is required to file reports pursuant to Section 15(d) of the Exchange Act, 15 U.S.C. § 78o(d).

12. Defendants Milligan, Brola, Tryst Capital Group, LLC and Griffdom Enterprises, Inc. are permanently barred from participating in an offering of penny stock, including engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of any penny stock. A penny stock is any equity security that has a price of less than five dollars, except as provided in Rule 3a51-1 under the Exchange Act, 17 C.F.R. § 240.3a51-1.

13. Pursuant to Fed. R. Civ. P. 54(b), the Clerk is directed to enter final judgments as to Milligan, Brola, Market 99 Ltd., Tryst Capital Group, LLC, and Griffdom Enterprises, Inc.

Dated this 22nd day of December 2009.

BARBARA M. G. LYNN
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF TEXAS