

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

GARY S. BECKER,
GREGORY S. SCHAEFER,
DILLON SCOTT SECURITIES, INC.

Defendants.

09 CV 5707 (SAS)

USDC SDNY
DOCUMENT
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DOC #:
DATE FILED: 7/9/10

ECF CASE

**FINAL JUDGMENT AS TO DEFENDANTS
GARY S. BECKER, GREGORY S. SCHAEFER,
AND DILLON SCOTT SECURITIES, INC.**

WHEREAS, on March 15, 2010, Plaintiff Securities and Exchange Commission ("Commission"), having moved for entry of judgment by default against Defendants Gary S. Becker ("Becker"), Gregory S. Schaefer ("Schaefer"), and Dillon Scott Securities, Inc. ("Dillon Scott") (collectively referred to herein as "Defendants") pursuant to Fed. R. Civ. P. 37 and this Court's Order dated February 8, 2010, and the Court, upon the papers submitted in support thereof and having heard the parties, and upon all prior proceedings had herein, having granted the Commission's motion:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants and Defendants' 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 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.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants and Defendants' 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 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.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants and Defendants' 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 or otherwise are permanently restrained and enjoined from violating Section 5 of the Securities Act [15 U.S.C. § 77e] by, 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 or examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Dillon Scott, and its servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 15 (c)(1) of the Exchange Act [15 U.S.C. § 78o(c)(1)] and Rule 10b-3 of the Exchange Act [17 C.F.R. § 240.10b-3] through use of the mails or any means or instrumentality of interstate commerce by effecting any transaction in, or inducing or attempting to induce the purchase or sale of, any security (other than commercial paper, bankers' acceptances, or commercial bills) otherwise than on a national securities exchange of which it is a member, or any security-based swap agreement (as defined in the section 206B of the Gramm-Leach-Bliley Act), by means of any manipulative, deceptive, or other fraudulent device or contrivance.

V.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Becker and Schaefer, and their servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from aiding and abetting any violation of Section 15(c)(1) of the Exchange Act [15 U.S.C. § 78o(c)(1)] and Rule 10b-3 of the Exchange Act [17 C.F.R. § 240.10b-3] by knowingly providing substantial assistance to a broker or dealer that, makes use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or induce or attempt to induce the purchase or sale of, any security (other than commercial paper, bankers' acceptances, or commercial bills) otherwise than on a national securities exchange of which it is a member, or any security-based swap agreement (as defined in the section 206B of the Gramm-Leach-Bliley Act), by means of any manipulative, deceptive, or other fraudulent device or contrivance.

VI.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Dillon Scott and its officers, 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 or otherwise are permanently restrained and enjoined from violating Section 17(a) of the Exchange Act [15 U.S.C. § 78q(a)] and Rule 15b3-1 of the Exchange Act [17 C.F.R. § 240.15b3-1] by failing to file a correct Form BD when serving as a broker or dealer as those terms are used in Exchange Act Section 15(a), or to promptly

file an amendment on Form BD correcting information contained in any application for registration as a broker or dealer or in any amendment thereto that is or has become inaccurate for any reason.

VII.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Becker and Schaefer, and their officers, 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 or otherwise are permanently restrained and enjoined from aiding and abetting any violation of Section 17(a) of the Exchange Act [15 U.S.C. § 78q(a)] and Rule 15b3-1 of the Exchange Act [17 C.F.R. § 240.15b3-1] by knowingly providing substantial assistance to a broker or dealer (as those terms are used in Exchange Act 15(a)) that:

- A. fails to file a correct Form BD; or
- B. fails to promptly file an amendment on Form BD correcting information contained in any application for registration as a broker or dealer or in any amendment thereto that is or has become inaccurate for any reason.

VIII.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Dillon Scott and its officers, 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 or otherwise are permanently restrained and enjoined from violating Section 15(b)(7) of the Exchange Act [15 U.S.C. § 78o(b)(7)] and Rule 15b7-1 [17 C.F.R. § 240.15b7-1] promulgated thereunder, by effecting any transaction in, or inducing the purchase or sale of, any security:

- A. without meeting such standards of operational capability as the Commission finds necessary or appropriate in the public interest or for the protection of investors;
- B. without meeting, and having all natural persons associated with the broker or dealer meet, such standards of training, experience, competence, and such other qualifications as the Commission finds necessary or appropriate in the public interest or for the protection of investors; or
- C. without any natural person associated with the broker or dealer who effects or is involved in effecting such transactions having been registered or approved in accordance with the standards of training, experience, competence, and other qualification standards (including but not limited to submitting and maintaining all required forms, paying all required fees, and passing any required examinations) established by the rules of any national securities exchange or national securities association of which such broker or dealer is a member or under the rules of the Municipal Securities Rulemaking Board (if the broker or dealer is subject to the rules of that organization).

IX.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Becker and Schaefer and their officers, 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 or otherwise are permanently restrained and enjoined from aiding and abetting any violation of Section 15(b)(7) of the Exchange Act [15 U.S.C. § 78o(b)(7)] and Rule 15b7-1 [17 C.F.R. § 240.15b7-1] promulgated thereunder, by knowingly providing substantial assistance to a registered broker or dealer or government securities broker or government securities dealer registered (or required to be registered) under Section 15(a)(1)(A) of the Exchange Act that effects any transaction in, or induces the purchase or sale of, any security:

- A. without meeting such standards of operational capability as the Commission finds necessary or appropriate in the public interest or for the protection of investors;
- B. without meeting, and having all natural persons associated with the broker or dealer meet, such standards of training, experience, competence, and such other qualifications as the Commission finds necessary or appropriate in the public interest or for the protection of investors; or
- C. without any natural person associated with the broker or dealer who effects or is involved in effecting such transactions having been registered or approved in accordance with the standards of training, experience, competence, and other qualification

standards (including but not limited to submitting and maintaining all required forms, paying all required fees, and passing any required examinations) established by the rules of any national securities exchange or national securities association of which such broker or dealer is a member or under the rules of the Municipal Securities Rulemaking Board (if the broker or dealer is subject to the rules of that organization).

X.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Dillon Scott and its officers, 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 or otherwise are permanently restrained and enjoined from violating Section 17(a)(1) of the Exchange Act [15 U.S.C. § 78q(a)] and Rule 17a-3(a)(12) [17 C.F.R. § 240.17a-3(a)(12)] promulgated thereunder, by failing to make and keep current a questionnaire or application for employment that (1) is executed by each “associated person” (as that term is defined in Rule 17a-3(h)(4) [17 C.F.R. § 240.17a-3(h)(4)]); (2) is approved in writing by an authorized representative of Dillon Scott; and (3) contains the information, with respect to each associated person, set forth in Rule 17a-3(a)(12)(A) – (H) [17 C.F.R. § 240.17a-3(a)(12)(A) – (H)].

XI.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that defendants Becker and Schaefer and their officers, 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 or otherwise are permanently restrained and enjoined from aiding and abetting any violation of Section 17(a)(1) of the Exchange Act [15 U.S.C. § 78q(a)] and Rule 17a-3(a)(12) [17 C.F.R. § 240.17a-3(a)(12)] promulgated thereunder, by knowingly providing substantial assistance to any broker or dealer that fails to make and keep current a questionnaire or application for employment that (1) is executed by each “associated person” (as that term is defined in Rule 17a-3(h)(4) [17 C.F.R. § 240.17a-3(h)(4)]); (2) is approved in writing by an authorized representative of such broker or dealer; and (3) contains the information, with respect to each associated person of such broker or dealer, set forth in Rule 17a-3(a)(12)(A) – (H) [17 C.F.R. § 240.17a-3(a)(12)(A) – (H)].

XII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants Becker, Schaefer, and Dillon Scott are jointly and severally liable for disgorgement of \$1,306,950 representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$218,770.23 for a total of \$1,525,720.23 Defendants shall satisfy this obligation by paying these amounts within fourteen (14) 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 the name of the Gary S. Becker, Gregory S. Schaefer, and / or Dillon Scott Securities, Inc. as the Defendant(s) 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. Each defendant shall simultaneously transmit photocopies of any such payment and letter to the Commission's counsel in this action, Richard G. Primoff, Senior Trial Counsel, and to Robert J. Keyes, Associate Regional Director, Securities and Exchange Commission, 3 World Financial Center, Suite 400, New York, NY 10281. Defendants shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961, on a joint and several basis. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

XIII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that

Defendants Becker shall pay a civil penalty in the amount of \$ 1,306,950.00, and Schaefer shall pay a civil penalty in the amount of \$ 1,306,950.00 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)(3). Defendants shall make such payments within fourteen (14) 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 the name of the particular 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. Each defendant shall simultaneously transmit photocopies of any such payment and letter to the Commission's counsel in this action, Richard G. Primoff, Senior Trial Counsel, and to Robert J. Keyes, Associate Regional Director, Securities and Exchange Commission, 3 World Financial Center, Suite 400, New York, NY 10281. Defendants 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.

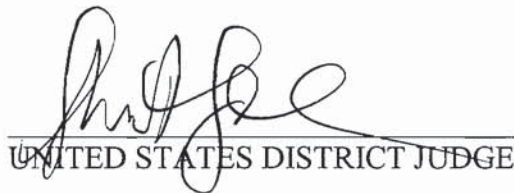
XIV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Becker and Schaefer 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].

XV.

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 Judgment.

Dated: New York, NY
~~June~~ 9, 2010
July


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

-----X

-V-

-----X

**MOTION FOR EXTENSION OF TIME
TO FILE A NOTICE OF APPEAL**

civ. ()

Pursuant to Fed. R. App. P. 4(a)(5), _____ respectfully
(parties)
requests leave to file the within notice of appeal out of time. _____
(parties)
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**

-----X
-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)

APPEAL FORMS