

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

SECURITIES AND EXCHANGE)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
GEORGE DAVID GORDON,)
JOSHUA WAYNE LANKFORD, and)
DEAN JOSEPH SHEPTYCKI,)
)
Defendants.)

Case No. 09-CV-0061-CVE-FHM

DEFAULT JUDGMENT AS TO DEFENDANT
DEAN JOSEPH SHEPTYCKI

This matter comes on for consideration of plaintiff’s Second Motion and Memorandum in Support of Entry of Default Judgment against Defendant Dean Joseph Sheptycki (Dkt. # 66). On February 10, 2009, plaintiff Securities and Exchange Commission (the Commission) filed this case alleging, *inter alia*, that defendant Dean Joseph Sheptycki violated section 17(a) of the Securities Act of 1933, 15 U.S.C. § 77v(a) (the Act), and section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78j(b) (Exchange Act). Plaintiff alleges that Sheptycki and others engaged in a “pump and dump” scheme to inflate the price of target stocks and sells their shares at an inflated price. Plaintiff seeks injunctive relief, disgorgement, pre-judgment interest, and statutory civil penalties against defendant.

On February 9, 2011, plaintiff filed a notice stating that it delivered a copy of the complaint and a waiver of service to Jeffrey Tew, an attorney who formerly represented Sheptycki, on February 14, 2009. Dkt. # 41, at 2. Sheptycki had previously entered an agreement with the Commission to waive service in any future proceeding brought by the Commission, in exchange for

the Commission's decision to accept Sheptycki's invocation of his Fifth Amendment right against self-incrimination as to a grand jury subpoena. Dkt. # 55-1, at 2-3. The Court found that "Sheptycki authorized Tew to receive documents, including a complaint, as notice of any future proceeding brought by plaintiff," that Tew accepted service of the complaint and actually delivered a copy of the complaint to Sheptycki, and that "plaintiff has properly served Sheptycki under the terms of the [parties' agreement]." Dkt. # 62, at 2-3. Sheptycki did not file a responsive pleading or otherwise enter an appearance in this case. On February 18, 2011, plaintiff filed a motion for entry of default by the Court Clerk (Dkt. # 63) as to Sheptycki, and the Court Clerk entered Sheptycki's default (Dkt. # 64) on November 24, 2009. Pursuant to Fed. R. Civ. P. 55(a), default judgment is appropriate when "a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise." The Court finds that Sheptycki has failed to file a responsive pleading or otherwise defend against plaintiff's claims, and default judgment should be entered in favor of plaintiff and against Sheptycki. On March 11, 2011, the Court held an evidentiary hearing on the amount of the default judgment as to disgorgement and civil penalty.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that plaintiff's Second Motion and Memorandum in Support of Entry of Default Judgment against Defendant Dean Joseph Sheptycki (Dkt. # 66) is **granted**.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Dean Joseph Sheptycki and his agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this default judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, section

10(b) of 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.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Dean Joseph Sheptycki and his agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this default judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, section 17(a) of 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.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that judgment is entered in favor of plaintiff Securities and Exchange Commission and against defendant Dean Joseph Sheptycki for disgorgement in the amount of \$43,927,809.95, representing profits as a result of the conduct alleged in the complaint, together with pre-judgment interest thereon, from January 1, 2007 through December 31, 2010, in the amount of \$10,855,267.04, for a total of \$54,783,076.99. Post-judgment interest shall accrue at a rate of .26 percent per annum. The Court orders that Sheptycki's liability for disgorgement will be joint and several with other defendants found liable in this case for the conduct alleged.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that defendant Dean Joseph Sheptycki shall pay a civil penalty in the amount of \$43,927,809.95 pursuant to section 20(d) of the Securities Act (15 U.S.C. § 77t(d)) and pursuant to section 21(d)(3) of the Exchange Act (15 U.S.C. § 78u(d)(3)). Defendant shall make this payment within 14 days after entry of this default 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 Sheptycki 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 default judgment. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury. Post-judgment interest shall accrue at a rate of .26 percent per annum.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that defendant Dean Joseph Sheptycki is 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).

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 default judgment.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that there being no just reason for delay, pursuant to Fed. R. Civ. Proc. 54(b), this default judgment should be entered before entry of final judgment as to all parties and claims. In particular, there are claims pending against defendants George David Gordon and Joshua Wayne Lankford. Gordon has entered an appearance in this case and “denies all relief and entitlement to relief sought or claimed by plaintiff.” Dkt. # 37, at 4. Plaintiff has not served Lankford and it is unclear if plaintiff will proceed with its claims against Lankford. However, this case has been pending for two years. The Court finds no just reason to delay entry of default judgment against Sheptycki, because he has received notice of this case and has chosen not to defend against plaintiff’s claims. Sheptycki is also a fugitive in a related criminal case and is unlikely to voluntarily enter an appearance in this case. Neither Gordon nor Lankford will be prejudiced by the entry of default judgment against Sheptycki. Thus, there is no just reason for delaying entry of default judgment against Sheptycki, and this default judgment constitutes a final judgment of plaintiff’s claims against Sheptycki.

DATED this 11th day of March, 2011.



CLAIRE V. EAGAN, CHIEF JUDGE
UNITED STATES DISTRICT COURT