

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES SECURITY AND EXCHANGE COMMISSION,

Plaintiff,

Case No.: 12-12109

v.

HONORABLE VICTORIA A. ROBERTS

KWAME M. KILPATRICK, et al.,

Defendants.

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ORDER GRANTING PLAINTIFF'S MOTION FOR ENTRY OF FINAL JUDGMENTS

(Doc. #45)

On July 31, 2014, the Court granted in part Plaintiff United States Security and Exchange Commission's ("SEC") motion for default judgment against Defendants Kwame M. Kilpatrick ("Kilpatrick") and Jeffrey Beasley ("Beasley"). The Court ordered that they pay disgorgement and civil penalties to the SEC. The SEC now moves for entry of final judgments against Kilpatrick and Beasley pursuant to Federal Rule of Civil Procedure 54.

The SEC's motion is GRANTED.

I. Background

While Mayor of Detroit and City Treasurer, respectively, Kilpatrick and Beasley, sat on the governing boards of the Police and Fire Retirement System of the City of Detroit ("PFRS"), and the General Retirement System of the City of Detroit ("GRS") (collectively, "the Pension Funds"). Chauncey Mayfield ("Mayfield") was the head of

Mayfield Gentry Realty Advisors (“MGR”), and became investment advisor to PFRS and GRS in May 2005 and June 2006, respectively.

On May 9, 2012, the SEC filed a complaint against Kilpatrick, Beasley, Mayfield, and MGR. The SEC alleged that throughout 2007, Beasley unlawfully solicited from Mayfield, through MGR, \$122,922.87 in monies, gifts, and trips for Kilpatrick and himself. At the same time Beasley solicited these gifts, Mayfield and MGR recommended that the Pension Funds purchase over \$115 million in securities offered by an entity controlled by Mayfield. On several occasions in 2007, the trustees of the Pension Funds voted to continue and expand their business relationship with Mayfield and MGR. The SEC alleges that the trustees acted without knowledge that Mayfield and MGR provided gifts to Kilpatrick and Beasley, both of whom voted in favor of the investments. This allowed Mayfield and MGR to receive millions of dollars in management fees. These actions, according to the SEC, amount to securities fraud.

The SEC served a Complaint and Summons on Kilpatrick at his home in Grand Prairie, Texas on May 16, 2012. The SEC served Beasley at his home in Chicago, Illinois by leaving copies with his son on July 10, 2012. Kilpatrick and Beasley failed to answer, plead, appear, or otherwise defend the SEC’s complaint. The Clerk of Court entered defaults against them on July 12, 2012 and August 31, 2012, respectively, pursuant to Fed. R. Civ. P. 55(a). Mayfield and MGR consented to final judgments against them.

On May 23, 2014, nearly two years later, the SEC filed a motion requesting the Court enter the following against Kilpatrick and Beasley: 1) default judgments; 2)

disgorgement; 3) civil penalties; and 4) permanent injunctions. Neither Kilpatrick nor Beasley responded before the Court ruled on the motion.

In ruling on the SEC's motion for default judgment, the Court took the SEC's allegations as true, and ordered Kilpatrick and Beasley to disgorge to the SEC their ill-gotten gains of \$122,922.87, plus \$39,939 in prejudgment interest, for a total of \$162,861.87. The Court also ordered Kilpatrick and Beasley to pay the SEC \$390,000 and \$130,000 in civil penalties, respectively. The Court denied the SEC's request for permanent injunction.

On April 10, 2018, the SEC filed a motion for entry of final judgments against Kilpatrick and Beasley. The SEC says that although the Court granted in part its motion for default judgment, it inadvertently did not file for entry of final judgment based on the Court's ruling. It seeks to remedy its error, and ensure that final judgment is entered pursuant to the Court's previous order.

In response, Kilpatrick says he received a copy of the SEC's motion for entry of final judgment on April 12, 2018. He claims to have no recollection of the facts of this case, or of receiving any documents relating to the matter. Kilpatrick says he was made aware of a default judgment entered against him on July 13, 2012, but that it was one month before his criminal trial (where he was subsequently found guilty and is currently serving his sentence at a federal prison in Oklahoma). The overwhelming amount of preparation necessary for his criminal trial made it impossible for him to focus on other matters, claims Kilpatrick. He further claims not to have any documents related to this matter in his possession, and he says much of his legal paperwork was destroyed while

he was in transit in January 2014. He requests that the Court grant him an opportunity to defend himself against the SEC's allegations.

II. Analysis

"When an action presents more than one claim for relief ... the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay." Fed. R. Civ. P. 54(b).

Here, there is no reason to delay an entry of final judgment. As the SEC says in its reply, its motion seeks to give effect to the Court's prior order, based on the indisputable fact that Kilpatrick and Beasley defaulted on the SEC's claims. Again, Beasley fails to respond. Kilpatrick responds for the first time, admitting that he has not defended himself against the SEC's allegations, and provides excuses why he failed to do so. However, the Court ruled on these allegations nearly four years ago, and Kilpatrick provides no legitimate reason why the Court should revisit its prior ruling.

III. Conclusion

The SEC's motion for entry of final judgment is GRANTED. Pursuant to the Court's order granting in part the SEC's motion for default judgment:

1. Kilpatrick and Beasley are ordered to pay \$122,922.87 in disgorgement, plus \$39,939 in prejudgment interest, on a joint and several basis;
2. Kilpatrick is ordered to pay a \$390,000 civil penalty; and
3. Beasley is ordered to pay a \$130,000 civil penalty.

The Court retains jurisdiction for the purposes of enforcing the terms of this Final Judgment.

IT IS ORDERED.

s/ Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: August 1, 2018

The undersigned certifies that a copy of this document was served on the attorneys of record, Kwame Kilpatrick and Jeffrey Beasley by electronic means or U.S. Mail on August 1, 2018.

s/Linda Vertriest
Deputy Clerk