

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 12-61078-CIV-ROSENBAUM/SELTZER

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**YAN K. SKWARA and
US FARMS, INC.,**

Defendants.

**FINAL JUDGMENT AS TO
DEFENDANT YAN K. SKWARA**

This matter is before the Court upon Plaintiff Securities and Exchange Commission's Motion for Entry of Final Judgment of Permanent Injunction and Other Relief [D.E. 20] as to Defendant Yan K. Skwara ("Skwara"). The Securities and Exchange Commission ("SEC") filed its Complaint against Skwara and Defendant US Farms, Inc., on June 6, 2012. D.E. 1. On December 4, 2012, the SEC filed this Motion to enter an agreed judgment against Skwara. D.E. 20. Attached to the SEC's Motion is Skwara's Consent to the entry of judgment, in which Skwara acknowledges service of the Complaint, enters a general appearance, admits the Court has jurisdiction over him and the subject matter of this action, waives entry of findings of fact and conclusions of law under Rule 52, Fed. R. Civ. P., and waives any right to a jury trial or to an appeal from the entry of this Final Judgment. Accordingly, it is **ORDERED and ADJGD** as follows:

I. PERMANENT INJUNCTION¹

A. SECTION 17(a)(1) OF THE SECURITIES ACT OF 1933

Skwara and his 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 Securities Act, 15 U.S.C. § 77q(a)(1), 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, to employ any device, scheme, or artifice to defraud involving the payment of undisclosed compensation in the form of cash, stock, or any other item of value to any investment advisor, manager, or trustee, or to any person associated with such investment advisor, manager, or trustee.

B. SECTION 10(b) OF THE SECURITIES EXCHANGE ACT OF 1934

Skwara and his 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 Exchange Act Rule 10b-5(a), 17 C.F.R. § 240.10b-5(a), by using any means or

¹ The Eleventh Circuit has held that injunctions merely requiring a party to “obey the law” fail to meet the specificity demanded by Rule 65(d), Fed. R. Civ. P. *See SEC v. Goble*, 682 F.3d 934, 949-50 (11th Cir. 2012). However, the Eleventh Circuit also recognized the need for “some breadth” in SEC enforcement actions, and stated that “a broad, but properly drafted injunction, which largely used the statutory or regulatory language may satisfy the specificity requirement of Rule 65(d) so long as it clearly lets the defendant know what he is ordered to do or not do.” *Id.* at 952. Here, although the agreed injunction makes reference to statutory and regulatory language and citations, it also includes specific language detailing the conduct in which Skwara is prohibited from engaging. Further, the fact that Skwara has agreed and consented to the terms of the injunction mitigates any concern that Skwara would be unaware of the conduct the injunction proscribes him from undertaking.

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, to employ any device, scheme, or artifice to defraud involving the payment of undisclosed compensation in the form of cash, stock, or any other item of value to any investment advisor, manager, or trustee, or to any person associated with such investment advisor, manager, or trustee.

C. PENNY STOCK BAR

Skwara 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.

D. OFFICER AND DIRECTOR BAR

Further, 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), Skwara is 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).

II. DISGORGEMENT AND CIVIL PENALTY

IT IS FURTHER ORDERED AND ADJUDGED that Skwara is liable for disgorgement of \$28,000.00, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$3,372.57, and a civil penalty in the amount of \$28,000.00, 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). Skwara shall satisfy

this obligation by paying \$59,372.57 to the SEC within fourteen (14) days after entry of this Final Judgment.

Skwara may transmit payment electronically to the SEC, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account or by credit or debit card via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. Skwara may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

Enterprise Services Center
Accounts Receivable Branch
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

and shall be accompanied by a letter identifying Skwara 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.

Skwara shall simultaneously transmit photocopies of evidence of payment and case identifying information to Amie Riggle Berlin, Esq., Securities and Exchange Commission, 801 Brickell Avenue, Suite 1800, Miami, FL 33131. By making this payment, Skwara relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to Defendant. The SEC shall send the funds paid pursuant to this Final Judgment to the United States Treasury. Skwara shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961.

Skwara shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil penalty amounts that he pays pursuant to the Final Judgment, regardless

of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. Skwara shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts that he pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

III. INCORPORATION OF SKWARA'S CONSENT

IT IS FURTHER ORDERED AND ADJUDGED that the Consent [D.E. 20-1] is incorporated herein with the same force and effect as if fully set forth herein, and that Skwara shall comply with all of the undertakings and agreements set forth therein.

IV. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED AND ADJUDGED that this Court retains jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

DONE AND ORDERED at Fort Lauderdale, Florida, this 31st day of December 2012.



ROBIN S. ROSENBAUM
UNITED STATES DISTRICT JUDGE