

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**ROBERT FOWLER and
US CAPITAL FUNDING II
SERIES TRUST 1, INC.,**

Defendants.

Civil Action No. 1:13-CV-1656-SCJ

**FINAL JUDGMENT AGAINST ROBERT FOWLER
AND US CAPITAL FUNDING II SERIES TRUST 1, INC.**

The Clerk of the Court having entered a default against Defendants Robert Fowler (“Fowler”) and US Capital Funding II Series Trust 1, Inc., (“US Capital”) (collectively, “Defendants”); the Securities and Exchange Commission (the “Commission”) having filed a Motion for Entry of Default Judgment against Defendant, with attached Exhibit, and a supporting memorandum of law; and for good cause shown:

I.

IT IS HEREBY ORDERED 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.

by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about:

- (a) any investment in or offering of securities,
- (b) the registration status of such offering or of such securities,
- (c) the prospects for success of any product or company,
- (d) the use of investor funds; or
- (e) the misappropriation of investor funds or investment proceeds.

II.

IT IS FURTHER ORDERED 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.

by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about:

- (a) any investment in or offering of securities,
- (b) the registration status of such offering or of such securities,
- (c) the prospects for success of any product or company,
- (d) the use of investor funds; or

- (e) the misappropriation of investor funds or investment proceeds.

III.

IT IS FURTHER ORDERED 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 26 of the Exchange Act in the offer or sale of any security by use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly, to make, or cause to be made, a representation to any prospective purchaser or seller of a security that any action or failure to act by the Commission is to be construed to mean, or has such effect that, the Commission has in any way passed upon the merits of, or given approval to, any security of any transaction or transactions therein.

IV.

IT IS FURTHER ORDERED that Fowler and US Capital are jointly and severably liable for disgorgement of \$350,000, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest

thereon in the amount of \$12,151.66, for a total of \$362,151.66, and a civil penalty in the amount of \$150,000.00 pursuant to Section 20(d) of the Securities Act and Section 21(d)(3) of the Exchange Act. Defendants shall satisfy this obligation by paying the total, \$512,151.66, to the Securities and Exchange Commission within 14 days after entry of this Final Judgment.

Defendants may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. Defendants 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 the case title, civil action number, and name of this Court; Robert Fowler and US Capital Funding II Series Trust 1,

Inc., as Defendants in this action; and specifying that payment is made pursuant to this Final Judgment.

Defendants shall simultaneously transmit photocopies of evidence of payment and case identifying information 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 Defendants.

The Commission shall hold the funds (collectively, the "Fund") and may propose a plan to distribute the Fund subject to the Court's approval. The Court shall retain jurisdiction over the administration of any distribution of the Fund. If the Commission staff determines that the Fund will not be distributed, the Commission shall send the funds paid pursuant to this Final Judgment to the United States Treasury.

The Commission may enforce the Court's judgment for disgorgement and prejudgment interest by moving for civil contempt (and/or through other collection procedures authorized by law) at any time after 14 days following entry of this

Final Judgment. Defendant shall pay post judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

V.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

Dated: July 31, 2014.

s/Steve C. Jones
HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE