

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 13-cv-61761- HURLEY/HOPKINS

SECURITIES AND EXCHANGE COMMISSION,)
)
Plaintiff,)
v.)
)
MARK BALBIRER,)
)
Defendant.)
_____)

**FINAL JUDGMENT AND ORDER GRANTING PLAINTIFF’S MOTION FOR
A FINAL JUDGMENT SETTING CIVIL PENALTY AMOUNT**

THIS MATTER is before the Court on Plaintiff Securities and Exchange Commission’s Motion and Memorandum of Law For a Final Judgment Setting Civil Penalty Amount against Defendant Mark Balbirer (DE 11).

This Court previously entered an Order and Judgment against Balbirer, including an injunction and a penny stock bar. (DE 10). That Order provides the Court shall determine, upon the Commission’s motion, the amount of a civil money penalty Balbirer shall pay pursuant to Section 20(d) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. § 77t(d); and Section 21(d) of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78u(d). (*Id.* at 4)

Upon consideration of the Commission’s Motion and being otherwise fully advised in the premises:

IT IS ORDERED AND ADJUDGED that the Motion is **GRANTED**.

I.

CIVIL PENALTY

IT IS FURTHER ORDERED AND ADJUDGED that Balbirer is liable for a civil penalty in the amount of \$35,000 pursuant to Section 20(d) of the Securities Act and Section

21(d) of the Exchange Act. The total amount, \$35,000, shall be due and payable within 14 days of entry of this Final Judgment.

Balbierer 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>. Balbierer also may 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 (i) identifying the case title, civil action number, and name of this Court; (ii) identifying Balbierer as a defendant in this action; and (iii) specifying that payment is made pursuant to this Final Judgment.

Balbierer shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action:

Patrick R. Costello, Esq.
Securities & Exchange Commission
801 Brickell Avenue, Suite 1800
Miami, FL 33131
costello@sec.gov

By making this payment, Balbierer relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to him. The Commission shall send the funds paid pursuant to this Final Judgment to the United States Treasury. Balbierer shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

Balbierer 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 this 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. Balbirer further 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 this 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.

II.

BANKRUPTCY NONDISCHARGEABILITY

IT IS FURTHER ORDERED AND ADJUDGED that, for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Balbirer under this Final Judgment or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Balbirer of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

III.

RETENTION OF JURISDICTION

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

IV.

DISMISSAL OF CLAIM FOR DISGORGEMENT


IT IS FURTHER ORDERED AND ADJUDGED that the Commission's claims for disgorgement and prejudgment interest against Balbirer are dismissed.

V.

RULE 54(b) CERTIFICATION

IT IS FURTHER ORDERED AND ADJUDGED that there being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Done and Ordered in Chambers in West Palm Beach, Florida, this 21st day of March, 2014.


Daniel T. K. Hurley
United States District Judge

Copies to:

Patrick R. Costello, Esq.
Securities and Exchange Commission
801 Brickell Avenue, Suite 1800
Miami, Florida 33131

Mark Balbirer, *pro se*
2400 NE 10th Street, Apt. 308
Pompano Beach, FL 33062-4147