

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

2019 FEB 27 AM 9:55

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

CHAD C. McGINNIS, et al.,

Defendants.

Civil Action No. 5:14-cv-
000006-CR

FINAL JUDGMENT AS TO DEFENDANT SERGEY PUGACH

The Securities and Exchange Commission (the "Commission") having filed a Complaint and Defendant Sergey Pugach ("Defendant") having entered a general appearance; consented to the Court's jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction and except as otherwise provided herein in paragraph VI); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is 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.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

II.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$764,727, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$239,649, and a civil penalty in the amount of \$764,727 pursuant to Section 21A of the Exchange Act, for a total due of \$1,769,103 (the "Total Due"). Defendant shall satisfy this obligation in full by:

1. The payment of \$62,000 to the Securities and Exchange Commission within 14 days after entry of Final Judgment;
2. The payment of \$118,941 to the Securities and Exchange Commission within 180 days after entry of the Final Judgment;
3. The remission of the entire balance of funds maintained by Shearman & Sterling, LLP, which it holds in the name of Sergey Pugach or on his behalf (in an amount no less than \$301,676);

4. Causing, within 30 days after entry of the Final Judgment, no less than \$1,286,486 in funds currently held by the U.S. Marshals Service (the "USMS Funds") to be transferred to the brokerage account held at Fidelity Brokerage Services LLC ("Fidelity") in the name of Sergey Pugach, account number ending in *0185; and
5. Following transfer of the USMS Funds, the disposition of the total funds held in the brokerage account held at Fidelity in the name of Sergey Pugach, ending in *0185, with the total proceeds of that account, less federal and state taxes withheld (including any applicable withdrawal penalties) that are owed as a result of this liquidation, to be paid to the Securities and Exchange Commission as set forth below.

Post Judgment interest shall accrue on any delinquent unpaid balance due from steps 1 and 2 above pursuant to 28 U.S.C. § 1961.

Payments to the Commission may be transmitted electronically, for which the Commission 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>. Payment may also be made 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; Sergey Pugach as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

Defendant shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action. By making any payment hereunder, Defendant relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to Defendant. 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) for any amounts due after 14 days of the respective deadlines set forth in this Final Judgment.

III.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that within sixty (60) days after being served with a copy of this Final Judgment (and following transfer of the USMS Funds), Fidelity shall transfer the entire balance of the Fidelity account described in Paragraph II above to the Commission, less federal and state taxes and penalties that are owed as a result of this liquidation (including any withdrawal penalties), which shall be withheld at the time of liquidation and remitted directly to the Internal Revenue Service and any other taxing authority as directed by the parties. The parties shall determine in good faith the appropriate taxable amounts to be withheld and will direct Fidelity to withhold this amount from transfer to the Commission, which amount will be remitted directly to the Internal Revenue Service and any other taxing authority. Payment to the Commission shall be made as set forth in Paragraph II above.

IV.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that within 3 days after being served with a copy of this Final Judgment, Shearman & Sterling LLP (“Shearman & Sterling”), shall transfer the entire balance of any and all funds held for the benefit of Sergey Pugach to the Commission as set forth in Paragraph II above. Payment to the Commission shall be made as set forth in Paragraph II above.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the allegations in the complaint are true and admitted by Defendant, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant 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 Defendant 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).

VII.

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 Final Judgment.

VIII.

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.

Dated: Feb. 27, 2019

/s/ Christina Reiss
UNITED STATES DISTRICT JUDGE

JUDGMENT ENTERED ON DOCKET

DATE: February 27, 2019